

OUR REPUBLIC:

A TEXT-BOOK UPON THE

CIVIL GOVERNMENT OF THE UNITED STATES,

WITH A

HISTORIC INTRODUCTION,

BY

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P R E F A C E.

THE written constitution of the United States, like the constitutions of the individual states of the Union, is simply the framework of the government. Many of its provisions are so general as to be adapted to a very wide application. On this account the study of the constitution gives an indefinite and sometimes an incorrect idea of the machinery actually employed to apply and enforce its mandates.

A commentary upon the constitution of the United States gives a faint idea only of the government as it has developed under the hand of the statesman. The details of a government are always more important to the average citizen and average student than are the theories of government that may be deduced from its written constitution. It is therefore the object of this treatise to place before the student such a statement of the actual agencies of the government of the nation as shall enable him the better to understand the silken bonds of authority which restrain, though unseen.

The plan of the work does not contemplate a reference to all minor details, though nothing deemed important has been omitted.

In the preparation of the volume we have endeavored to respond to the growing and strengthening sentiment of American educators, favoring a more general and systematic study

of civil government, in a way adapted to the common schools, and to anticipate the day when the government of the state shall be studied before that of the nation shall be taken up. The details of all the governing agencies and functions of the state may safely and properly be taught in the last years of the grammar school course. The study of the national government may be reserved for the high schools and academies. We have no doubt that such an order of study of this branch of human knowledge will be generally adopted at no distant day.

In addition to the details of the government, enough comment has been supplied to make the theory of government, as generally accepted, clear and complete.

The scattered provisions of the national constitution, bearing likeness to the Bill of Rights of the state constitutions, are collected and arranged connectedly. They are mostly written in the technical language of the law-books, but we have tried to make them clear to the student by explanatory notes.

It is expected that the Historic Introduction will be read by all students. It is new to a text-book in civil government. How much time shall be given to it as a *study* must depend upon the age and requirements of the class and the time at the disposal of the teacher.

In the treatment of the states, let it be remembered that the laws, usages, and customs are somewhat diverse, the officials sometimes differing in name, and having different functions. Hence the authors are not often able to go very much into details, and many of the statements should be supplemented by the teacher so as to adapt such a book to the different parts of our great Union of States.

THE AUTHORS.

CONTENTS.



	PAGE
HISTORIC INTRODUCTION	1
PREAMBLE OF THE CONSTITUTION	21
BILL OF RIGHTS	25
THE STATE	39
Officers	39
Legislature	41
Judiciary	41
County	43
City	43
Town, Village, or Borough	44
Laws	46
Education	47
Marriage	48
Parents and Children	50
Taxes	51
Juries	52
Militia	51
Prisons, Asylums, etc.	55
Wills	58
Contracts	59
Partnership	62
Mortgages	64
Liens	65
Leases	66
Sales	67
Receipts and Notes	69
Interest and Agency	70
Insurance	71
Railroads	73
Canals	75

	PAGE
CIVIL POLITY	77
DIVISION OF POWERS	80
Legislative Department	84
Powers of Congress	99
Restrictions upon Congress	118
Administrative Department	123
The President	124
Qualifications	126
Powers and Duties	127
The Departments	129
Department of State	130
Bureaus	130
Department of the Treasury	134
Bureaus	135
The Revenue System	138
The Light-house Service	142
The Mint	142
National Banks	142
Department of War	144
Bureaus	144
The Army	145
The Military Academy	147
Department of the Navy	149
Bureaus	149
The Naval Academy	150
The Navy	151
Department of the Interior	152
Bureaus	152
Patents	153
The Public Lands	156
Department of the Post-Office	162
Bureaus	162
Money Orders	163
Letter Registry	164
Immediate Delivery	164
Dead-letter Office	164
Postage	165
Department of Justice	166

DIVISION OF POWERS.

The Departments.

	PAGE
Miscellaneous	168
Naturalization	168
Copyrights	169
Smithsonian Institution	170
Inter-State Commerce Commissions	171
Judicial Department	174
Supreme Court	174
Circuit Courts	174
District Courts	175
Supreme Court of the District of Columbia	175
Court of Claims	176
Territorial Courts	176
Officers of the Courts	176
Trials	178
Jurisdiction of the United States Courts	179
Impeachment	185

RELATIONS OF THE STATES	187
Prohibitions upon the States	188
Prohibitions upon the United States	198
Constitutional Commands	204

AMENDMENTS TO THE CONSTITUTION	209
---	------------

CIVIL SERVICE	212
--------------------------------	------------

APPENDIX	215
Declaration of Rights	215
Articles of Confederation	221
Declaration of Independence	232
Constitution	239
INDEX	261

HISTORIC INTRODUCTION.



WE are now near the four-hundredth year-stone in the history of the United States. Columbus discovered America, October 12, 1492. The great discoverer did not visit the mainland of North America, but his discovery was the initial act that produced the present nation. Before him, other Europeans had visited the present boundaries of the original thirteen colonies, but their visitations were not related in any way to the present condition of affairs. The Northmen came and went, but they left little trace of their coming. After Columbus, there was an era of explorations extending over a period of more than one hundred years. Sebastian Cabot examined the eastern shores of North America, from the mouth of the St. Lawrence river to Albemarle sound, in 1498. Thirteen years afterwards, on Easter Sunday, Ponce de Leon stepped upon the fertile soil of the peninsula which he fitly named Florida. In 1520, Vaquez de Ayllon, a Spanish adventurer and pirate, visited South Carolina in search of slaves. He enticed a large number of Indians on board his vessel and took them to Hayti. This was the beginning of the slave-trade in the United States. John Verrazzano, in 1524, landed near Wilmington, in North Carolina, on a tour of explorations. He examined the coast some distance to the south, and northward to Nova Scotia. New York bay and Narragansett bay are two inlets of the ocean which he explored. Stephen Gomez, a former companion of Magellan, a few years later sailed along the coast of the middle and northern states in search of a north-western passage

to the Pacific ocean. Failing in his search, he imitated the southern pirate, Ayllon, and captured a ship-load of Indians to be sold as slaves. The slave-trade, as we see, was not confined to the southern states.

In 1541, Alarçon sailed along the Californian coast nearly as far north as San Francisco. In the same year, Coronado passed up the gulf of California and discovered Gila river. This he followed eastward, in search of the renowned seven cities of Cibola. He is said to have traversed the eastern foot of the Rocky Mountains, and to have wandered north-easterly over the great plains to the fortieth parallel of latitude and to a great river beyond. This would take him through Kansas and into the borders of Nebraska. Another noted exploration was begun in 1539. In that year Fernando de Soto landed in Florida and searched two years for rich cities and for mines of the precious metals. He traversed Alabama and Mississippi, and possibly Georgia and Tennessee. He died near the Mississippi river, below Memphis, and was buried in its waters. In 1562, a party of Huguenots, under John Ribault, attempted a settlement in South Carolina. The colony was soon after abandoned, as the civil wars, then raging in France, prevented the sending over aid and reinforcements. Three years afterwards, in 1565, the Spaniards founded St. Augustine. This was the first permanent settlement within the boundaries of the United States.

In 1577, Sir Francis Drake carried the English flag northward along the western coast of North America to the present state of Oregon. The second permanent settlement was made by the Spanish, at Sante Fe, New Mexico, in 1582. In 1584, Sir Walter Raleigh sent two vessels with emigrants, under Philip Amidas and Arthur Barlow, to make a settlement near the mouth of the Potomac river. The colonists were driven southward to the coast of North Carolina, where they traded with the Indians; but they returned to England without mak-

ing a settlement. They gave such a glowing description of the country that it captivated Queen Elizabeth, who named the country Virginia. The next year, another colony was sent over under Sir Richard Grenville. The party barely escaped shipwreck at the mouth of Cape Fear river, whence they gave it its name. The colonists debarked on Roanoke island, in Albemarle sound. They remained there only a year, when they returned to England. Two years afterwards, John White led a colony of settlers to the same place and founded a city to which was given the name Raleigh. White left the colony and returned to England for supplies and additional colonists. He did not return for three years; he then found the place deserted and no trace of the colonists left. Their fate has never been learned. Among them was a grand-daughter of White, named Virginia Dare, said to be the first child of English parents born within the present boundaries of the thirteen original colonies.

In 1602, Bartholomew Gosnold visited the coast of New England. He gave the name to Cape Cod after the name of the fish which he caught near its shore. The next year, Martin Pring explored the coast from Maine to Martha's Vineyard, and was followed, two years later, by George Weymouth, in nearly the same course. In 1607, George Popham came over with a colony for settlement in "North Virginia." They erected a fort at the mouth of the Kennebec river, and named it Fort St. George. The death of their leader and the extreme severity of the following winter so discouraged them that they returned to England the next spring. In 1614, John Smith, having already had an eventful career with the Virginian colony, sailed from England with two ships. He made a temporary settlement on the island of Monhegan, off the coast of Maine. Leaving a portion of his men here, he made an exploration of the coast as far south as Cape Cod. He gave the name New England to the country; a name which the king confirmed.

EARLY SETTLEMENTS.

Virginia. — In 1606, King James granted charters to two companies. To the London Company, composed of “noblemen, gentlemen, and merchants,” he granted territory extending north and south between the thirty-fourth and thirty-eighth parallels of latitude — about from the mouth of Cape Fear river to the mouth of the Potomac river, — to be called South Virginia. To the Plymouth Company, composed of “knights, gentlemen, and merchants,” was granted territory between the forty-first and forty-fifth parallels of latitude — about from the latitude of New York city to the mouth of St. Croix river, — to be called North Virginia. The three degrees between the two grants was reserved as neutral ground, but was open to settlement by both companies, with the condition that neither company should settle within one hundred miles of any settlement previously made by the other company. Under the charters, each Virginia was to be governed by a council, appointed by the king, composed of residents of England. The local affairs of the colony were to be managed by a council, residents of the colony, and also appointed by the king. Each local council was to choose a presiding officer, or head, who should be governor of the colony. No civil or political rights were given to the colonists, and the products of their labor were to be shared in common. A settlement was made at Jamestown, Virginia, under the charter, in 1607. Two years afterwards, an amendment was made to the charter, by which the territory was extended so as to include North Carolina and Maryland, and to extend westward without limit. The amendment also changed the character of the government somewhat. The council was to be chosen by the company, with power to make laws and to appoint a governor who should supersede the local council. In 1611, the governor, Sir Thomas Dale, assigned to each settler a definite tract of land, and the commu-

nity of goods was abandoned. A third charter, granted in 1612, abolished the council resident in England, and the company governed the colony more directly through a governor of its own appointment. In 1619, Governor Yeardley introduced a representative feature into the government, and in that year, the first American legislative body representing the people assembled at Jamestown. This act of Governor Yeardley was confirmed two years later, when a written constitution was granted, vesting the government of the colony in a governor and council appointed by the company, and a general assembly elected by the people. This assembly was to consist of two members from each borough, and to meet annually. In 1624, the king took away the charter of the company and governed the colony as a royal province. The governing agency consisted of a governor, twelve councilors appointed by the king, and the legislative assembly which was retained.

Massachusetts. — The attempt of George Popham and his associates to found a colony at the mouth of the Kennebec river was the only attempt of the kind made by the Plymouth Company under its charter of 1606. In 1620, the company was dissolved, and a new company formed as the Council of Plymouth, under a new charter, that granted territory from the fortieth to the forty-eighth parallel of latitude, extending from near Philadelphia to the bay of Chaleurs, and from the Atlantic to the Pacific oceans. In the same year that this new charter was given, a settlement was made within its territory and without its knowledge. The Pilgrims landed at Plymouth, December 21, 1620. Before leaving the *Mayflower*, its forty-one male immigrants signed a written agreement to obey such laws as might be enacted for the common good. The form of government was very simple. The governor was chosen by the people, and he had one assistant. The number of assistants was afterwards increased to five, and then to seven. The legislature was the whole body of the male inhabitants. This was

a very near approach to a pure democracy. In 1639, the increase in the number of the inhabitants compelled a resort to a representative legislature, each town sending one deputy. For two years after the settlement at Plymouth, the settlers shared their goods and the products of their industry in common. In the third season, land was assigned to each settler, resulting in greater industry and thrift.

As early as 1613, a French colony was found at Mt. Desert island, off the coast of Maine, by Captain Argol, of Virginia, and broken up. About the time that the landing was effected on Plymouth Rock, a few weak settlements were made along the coast of Maine, and they gained strength slowly. In the meantime, the Council of Plymouth granted portions of this territory, from the Piscataqua river to the Penobscot river, to several companies. As this territory, in the boundaries named, had already been granted to Gorges, serious controversies arose over them. In 1639, Saco was a thriving village. In 1626, a small colony located at Naumkeag, the Indian name for the present city of Salem, in Massachusetts. A portion of this colony removed to Charlestown the following year. In 1628, a hundred Puritans under John Endicott were added to the colony at Salem, sent out by a company that obtained privileges from the Council of Plymouth. In 1629, this company re-organized under the name "The Governor and Company of Massachusetts Bay, in New England," and obtained a charter directly from the king. This charter vested the executive government in a governor, a deputy-governor, and a council of eighteen, with the legislative power reserved to the proprietors. The same year, the company sent additional colonists to Charlestown, and, in 1630, appointed John Winthrop governor and sent eight hundred colonists with him. These, with the several hundreds that soon followed, settled Dorchester, Roxbury, Watertown, Lynn, Boston: the last-named became the capital of the colony. The following year, two important rules

were adopted by the proprietors: (1) only freemen could vote for officers, and (2) those only could be made freemen who should belong to some church within the colony. The charter-boundaries of the colony of Massachusetts bay were to extend from a point three miles south of any part of the Charles river to a point three miles north of any part of the Merrimac river. As this grant covered much of the territory already given to Gorges and Mason, it would seem that the source of the Merrimac river was not then known. In 1634, the towns were allowed to send deputies to help make laws. The charter of this colony was recalled in 1684, and the notorious Andros appointed colonial governor, by James II. Upon the accession of William and Mary, consequent upon the revolution of 1688, Andros was sent out of the province, and the colony resumed its old form of government, under its old charter. Upon the union of the colonies of Plymouth and Massachusetts bay, in 1691, a new charter was secured from the crown, extending the boundaries so as to include a large portion of Maine, over which Massachusetts had asserted jurisdiction very early, and had purchased, in 1677, the contested claims of the heirs of Gorges, so as to make the title complete. By this new charter, the governor and other high officers were appointed by the king.

New Hampshire. — A settlement was begun at Portsmouth, in 1623, by Gorges and Mason, under a grant from the Plymouth Company. About the same time another was made at Dover, under the same authority. In 1641, the scattered settlements were united to Massachusetts, and so remained until 1679, when the colony was made a royal province, governed by a president and council appointed by the king, and a house of representatives elected by the people. This colony shared with the others in the oppressions and exactions of the Andros government. After the colonies were freed from Andros, the colony was replaced under the jurisdiction of Massachusetts.

A separation took place in 1692, followed by a reunion, in 1699, which continued until a final separation, in 1741. Thenceforward, until 1776, the colony was a royal province.

New York. — Henry Hudson discovered, in 1609, the river that bears his name. The first settlement was made by some Dutch colonists, on Manhattan island, in 1623, under the patronage of the Dutch West India Company. In 1664, the king of England granted this district of country, including a portion of Connecticut and New Jersey, to his brother, Duke of York and Albany. Possession by force was taken at once. The colony was ruled by a governor appointed by the duke. In 1683, an assembly of representatives was granted to the people. This assembly established a charter of liberties which became the basis of a representative government for the colony. In 1685, the duke became king of England, and he withdrew the privileges which he had granted as duke. He forbade the legislative assembly and prohibited printing-presses in the colony. The notorious Andros became its governor at the same time that he was sent to oppress the other colonies. In 1691, a successor to Andros arrived, and affairs resumed their former methods, the colony being ruled as a royal province.

Connecticut. — The Dutch claimed the Connecticut river as the boundary of their colony, and built forts upon the river. There were also Dutch settlers within the limits of the state at a very early date and before English colonists found it. The first proprietor of Connecticut, under grant from the Council of Plymouth, was the Earl of Warwick. He transferred his interests to Lord Say and Seal and Lord Brooke, in 1631. The grant extended from the Narragansett bay to the Pacific ocean. In 1633, without any authority from the proprietors, and without their knowledge, a small company of emigrants from the colony of Plymouth established the beginning of a colony at Windsor. The following year, people flocked into the valley of the Connecticut from many towns of the Massachusetts and

Plymouth colonies, and in 1635 settlements were made at Wethersfield, Hartford, and other points. In 1639, the colonies of Windsor, Hartford, and Wethersfield, finding themselves outside the limits of any colonial government, organized one government for those colonies, now the Connecticut colony. A constitution was adopted, providing for a governor, a deputy-governor, and other magistrates, and for a legislative assembly, all to be chosen by the freemen of the towns forming the colony. In 1638, New Haven was founded by a company of settlers from London. The next year, they organized a government, with the Jewish Scriptures as their code of laws. The right to vote and to hold office was restricted to church members. In 1665, under a charter granted three years previously, the colonies of Connecticut and New Haven were united, and became the colony of Connecticut. The charter confirmed the privileges of the constitution of the Connecticut colony of 1639. In 1687, upon his arrival in the colony, Sir Edmund Andros made a demand upon the legislature for its charter. The demand was evaded, and the debate was prolonged until the evening. At a signal, the lights were extinguished, and Captain Wadsworth seized the charter from the table and concealed it in a hollow oak-tree near by. This tree became famous as the Charter Oak. Andros ruled the colony until his expulsion, when the charter was recovered and the old order of affairs was resumed.

Maryland. — Lord Baltimore received from the king a grant of land upon the Chesapeake bay. He was a Roman Catholic, and desired to secure a refuge for his co-religionists. Under his auspices, a colony settled near the present city of Baltimore, in 1634. The charter secured to the colonists a share in the legislation of the province, and exempted their property from taxation by the home government. The first session of the legislature was an assemblage of the freemen of the province. A representative legislature was established in 1639. This legislature

was afterwards divided into two bodies; the members of the one (higher) branch were appointed by the proprietor, and the members of the other (lower) branch were elected by the people. Religious toleration was established by law, in 1649; it had already existed as a fact from the foundation of the colony. Upon the accession of William and Mary to the throne of England, there were doubts concerning the loyalty of the proprietor and people of the province to the new sovereigns. The rights of Lord Baltimore were thereupon revoked, and the colony became a royal province. In 1715, the colony was restored to the heirs of Lord Baltimore, and it remained a proprietary province until the Revolution.

Rhode Island. — Roger Williams was banished from the Massachusetts colony, in 1636. He and his associates betook themselves to the head of Narragansett bay, where they obtained from Canonics and Miantonomoh, the chief sachems of the tribe of Narragansett Indians, a tract of land on which Providence was founded. A short time previous to the arrival of Williams, a settlement had been made by William Blackstine (or Blackstone), a few miles north, and on the river that bears his name. The government established by Williams was a pure democracy. All its functions, executive, legislative, and judicial, were exercised by the citizens assembled in a mass meeting. The majority ruled in all civil matters. It was ordered in the beginning that the civil power had no control over the religious opinions of men. In 1638, William Coddington and a small party, who had been persecuted in Massachusetts, followed Williams to Providence, and thence removed to the island afterwards called Rhode Island, which they purchased of the Indians. Both settlements increased by the influx of the persecuted from other colonies. The colony of Rhode Island adopted a government nearly identical with that which had been established at Providence, but the chief magistrate was called “judge,” in imitation of the Jewish government. The two colonies remained distinct until

1644, when a charter was obtained which united them into one province. The charter continued the control of civil and religious affairs in the hands of the people. In 1647, some changes were made in the form of the government, by reason of the increase in the number of its inhabitants. "Freedom of faith and worship was assured to all — the first formal and legal establishment of religious liberty ever promulgated, whether in Europe or in America." In 1663, another charter was obtained, which was similar to the one granted to the Connecticut colony, and named the colony "Rhode Island and Providence Plantations." One of the earliest laws passed by the legislature of the new colony restricted the suffrage to the holders of real estate of a certain amount and to their oldest sons. Andros treated this colony as he had treated the other northern colonies, and he took away its charter and ruled it through a council appointed by himself. Upon the dethronement of King James and the expulsion of Andros, the charter was resumed and the former government was re-instated.

Delaware. — This state received its first settlers near the present city of Wilmington, in 1638. Though not included in the grant to the Duke of York and Albany, it was included by him in his government, and was transferred by him to William Penn, in 1682. Thereafter, until 1702, it received the same treatment which Penn gave to his other province. At that date, 1702, it was allowed to secede to the extent that it had a separate legislative assembly, though it was still within the jurisdiction of the governor of Pennsylvania.

The Carolinas. — In 1660, a settlement was made by a party from some of the New England colonies, at the mouth of Cape Fear river. The colony did not prosper, and many of its settlers deserted it. Five years later, a party from the Barbadoes re-inforced the colony, and it was thereafter called the Clarendon colony. In 1663, Lord Clarendon and seven associates received from the king a patent for a large territory south of

Virginia. Two years afterwards, the patent was amended so as to extend the boundaries of the grant from the northern limit of North Carolina to St. Augustine. When the proprietors took possession, they found the settlement already made by the New Englanders, and also a colony of planters from Virginia, on Albemarle sound, called the Albemarle colony. This latter colony had a government giving to the people liberty of conscience and a voice in legislation. In 1670, the Carteret colony was founded at old Charleston, and a representative government organized. John Locke drew up a grand model of a government for this colony. The scheme was nominally in force for twenty-five years, but it was never carried out, as it was not adapted to the people in their condition. The three colonies were but one province, though they were so distant from one another that they had two governors. In 1677, upon an attempt to enforce the Navigation Act against a vessel from New England, the people of the northern colony rebelled, imprisoned the governor and some of the council, and organized a temporary popular government. They remained, in the meantime, under the dominion of the proprietors, and loyal to them. In 1729, the colony was divided into North Carolina and South Carolina, and each became a royal province, with all colonial officers appointed by the king.

New Jersey. — This was a part of the territory granted to the Duke of York and Albany. The first settlement is usually dated 1664, at Elizabethtown, by Puritans. But, before it was granted to the duke, it had been coveted by the Dutch, and parties had settled upon its edge not a very long time after their countrymen had colonized Manhattan island. The duke transferred his claim to Lord Berkeley and George Carteret. The proprietors gave to the colonists a liberal constitution, in order to encourage settlers. This provided for a legislature elected by the people, and a governor and council appointed by the proprietors. In 1676, the colony was divided, each proprietor

taking one-half, and each half having a separate government. Andros took possession of the two colonies when he seized the other northern colonies, and ruled until his deposition, after which the former governments were resumed. In 1702, the proprietors surrendered their powers to the crown. The king re-united the two colonies as New Jersey, and placed the province under the governor of New York, allowing the legislative assembly to be retained. In 1738, it was made into a separate province, and was permitted to retain the constitution and form of government given to it by the proprietors.

Pennsylvania. — The territory was granted to William Penn in 1681, and he at once sent out a colony to take possession. The following year he prepared a form of government for his colonists, vesting all power in the proprietor, or in a governor appointed by him, and in a council and legislature elected by the people. Among the first laws passed by the legislature was one ordering that no one believing in Almighty God should be molested in his religious views, and making faith in Jesus Christ a qualification for voting and holding office. At a subsequent time, Penn granted a charter of liberties, extending the privileges before given. Upon the accession of William and Mary, the loyalty of Penn to those sovereigns was suspected, and the province was taken from him and placed under the immediate government of New York. In 1694, the government of England became convinced of Penn's loyalty, and the province was restored to him. In 1701, Penn granted to his colony a charter still more liberal than the former one, under which the colony continued until the Revolution.

Georgia. — In 1732, a grant was made to James Oglethorpe of a tract of land to extend from the Savannah river to the Altamaha river, in trust for the poor. In the settlement made the following year by Oglethorpe himself, the settlers were not permitted to become owners of the land which they cultivated. The colony did not flourish, and, in 1752, the trustees in whose

hands Oglethorpe had left the colony surrendered their trust to the crown. The colony thereupon became a royal province, all the officers being appointed by the king.

TENDENCY TOWARD UNITY.

Many of the earlier settlements in the colonies were made as individual enterprises, — unconnected with others. Plymouth was peopled by a band of men and women who had no assistance from, and no reliance upon, any other colony or any government. Salem and Charlestown received their first inhabitants without any aid from company or government. The first settlers along the coast of Maine were scattered bands, who appeared to seek homes at distances from others, with whom they had no connections. In Rhode Island, two settlements were made at an early day as separate colonies. In most of these cases, each settlement organized a government of its own and for itself, and without any reference to any neighboring settlement or to any other government. In New Jersey, Pennsylvania, and Delaware, there were early scattered settlements of Dutch, Swede, or Finn, and they seem to have been without any but a crude sort of government. The two settlements first made in North Carolina were independent of each other and of the world, and each organized a government for itself. As already shown, the settlements that were made under the direction and control of companies or proprietors of colonial territory were supplied with forms of government, — a separate set of forms for each separate colony.

In process of time, these colonies became cognizant of each other's presence, and they made acquaintances, one with another. As the Indian difficulties crowded upon the settlers, there grew up a desire for association and co-operation. At first the co-operation was temporary, formed for a special occasion. As these occasions of need became more frequent, and as the advantages of co-operation became known by actual experience, the tendency

grew toward a permanent co-operation by consolidation of settlements. Thus, in 1639, as already shown, the colonies of Hartford, Wethersfield, and Windsor united into one colony, known as the Connecticut colony, and was joined by the Saybrooke settlement five years later. In 1665, New Haven joined the others, and thenceforth these formed the colony of Connecticut.

In 1643, the four colonies of Plymouth, Massachusetts, Connecticut, and New Hampshire formed a confederacy, called the United Colonies of New England. The object was "the better to provide for their common security and welfare." The confederacy had control of such methods only as related to the defense and safety of the four colonies, and were managed by a commission consisting of two delegates from each colony. Each colony had charge of its local affairs as heretofore. The settlements of Providence and Rhode Island united in 1644, and soon afterwards assumed the joint name, "Rhode Island and Providence Plantations." As stated before, the settlers in New Hampshire were united to Massachusetts during eighty-five years prior to the Revolution. Soon after 1652, Massachusetts asserted authority over the settlements of Maine, as far east as the Kennebec river. By the new charter of 1691, the jurisdiction of Massachusetts was extended eastward so as to include all of Maine and Nova Scotia. By this same charter, the strong colonies of Plymouth and Massachusetts were permanently united as Massachusetts.

The movements in the colonies south of the Hudson river were not always and altogether in the direction of union. New Jersey was divided in 1676, and so remained until 1702. Delaware became a part of Pennsylvania by grant from the Duke of York and Albany. It remained in the jurisdiction of that province until 1702, when it was allowed to partially withdraw and to set up a legislature of its own. The union was wholly severed during the war of the Revolution. When first settled,

North Carolina and South Carolina constituted one province, with three separate colonies. In 1729, a division was made, and they become two colonies.

Besides the tendency of the colonies to co-operate and unite, in their early history, as stated above, there may be traced through their later history a tendency to form more extensive alliances, outgrowths of a national idea. It is not doubtful that the earlier alliances and unions, made by the colonies when they were weak settlements, were faint beginnings of the same idea, but not developed for many years. When the colonies were strong enough to attract the attention and the cupidity of European governments, they had more trouble than the savage Indians gave to them. They became, of necessity, embroiled in all the wars that affected England. France and England were hereditary and relentless foes. The colonies and possessions of those two nations in America were not distant from each other, and, in some places, the claims of the one overlapped the claims of the other. As the two nations were in a state of almost chronic warfare, the English colonies had to defend themselves against the French armies, the French colonies, and the Indians. Then it was that the colonies most felt the need of more thorough alliances and more active and efficient co-operation. Then the idea of nationality displayed wonderful development. As early as 1697, William Penn suggested and urged a union of all the colonies. Later, in 1722, Daniel Coxe, of New Jersey, called the attention of the colonies to the same idea. Benjamin Franklin and other statesmen were fully alive to the importance of the growing sentiment, and aided in its dissemination. Even the English ministry adopted the idea. In 1754, the threatened war between England and France seeming to be inevitable, the government of England suggested to the colonies that they unite in some scheme for a common defense. Accordingly, July 4 of that year, a conference was held at Albany, consisting of delegates

from all the colonies of New England, from New York, Pennsylvania, and Maryland. At this conference, a plan, drawn by Benjamin Franklin, was adopted. By this plan, a governor-general was to be appointed by the king, and a council of delegates was to be elected by the people of the colonies: these were to constitute the government of the united colonies, with power to pass and to enforce laws for raising money, levying troops, regulating trade, and laying duties. The governor-general was to have a veto upon the laws passed by the council. The plan was rejected by the colonies and by the king: the colonies thought that it gave too much power to the king, and the king thought that it gave too much power to the people.

In 1765, during the excitement growing out of the passage and attempted enforcement of the Stamp Act, the legislature of Massachusetts sent circular letters to all the other colonies, inviting them to send delegates to a congress, which should meet in New York, to deliberate upon the condition of affairs and to suggest measures for the common welfare. On the assembling of the congress, October 7, delegates were present from Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina. The other colonies were in full sympathy with the objects of the congress. This was called the American Congress. It drew up a Declaration of Rights, asserting that only their own representatives had power to tax them, and only their own juries to try them. It also sent a petition to the king and a memorial to Parliament. Two years later, upon the passage of the act imposing the tea-tax, the legislature of Massachusetts again sent letters to the other colonies, calling for a union of all, in order to enforce a demand for a redress of grievances, and it refused to withdraw the call at the demand of the king.

As early as 1773, most of the colonies appointed committees of correspondence, in order to keep up an interchange of opinion and suggestion with each other, and to intensify the senti-

ment of national unity. The following year, the provincial assembly of Massachusetts convened at Salem and adopted resolutions calling for a general congress of all the colonies, at the same time appointing five delegates to that congress. The other colonies accepted the idea of a congress, and appointed delegates. The congress met at Philadelphia, September 5, 1774. The governor of Georgia prevented the election of delegates by that colony; all the other colonies were represented. This congress adopted a second Declaration of Rights, and recommended an American association pledged to non-intercourse with England. Before adjourning, it provided for another congress, to be held in May, the next year. This congress of 1774 is known as the First Continental Congress. Its name is a guaranty of the decay of the colonial sentiment, and the growth of the national idea. In the meantime, the assembly of Massachusetts met and resolved itself into a provincial congress. It then proceeded to organize a body of militia ready to take up arms and to march at a minute's notice; from this they became known as "minute men." A committee of safety was appointed to have charge of matters of defense. Other colonies promptly followed the example set by Massachusetts.

A second continental congress convened May 10, 1775, at Philadelphia. It sent a petition to the king, appointed a committee of secret correspondence with the colonies and with European nations, and assumed the authority of a government over the colonies as The United Colonies of America. The royal authority substantially closed, in all the colonies, during the year 1776, by the withdrawal of the governors. In June of that year, the congress, by resolution, declared "that these united colonies are, and of right ought to be, free and independent states," and appointed a committee to draw up a proper declaration. The committee reported the Declaration of Independence, and congress adopted it July 4, 1776. More than a year before, however, the people of Mecklenberg Co., N.C.,

had declared their independence of England. On the 17th of November, 1777, Congress agreed to articles of confederation of the colonies, and sent them out to the colonies for their adoption. They were duly adopted, and the confederate government was afterwards organized.

When the war of the Revolution had closed, and efforts were made to create a national government on the basis of the Articles of Confederation, the weakness of those Articles became painfully apparent. The statesmen began, quite early, to discuss methods of relief. Early in 1786, the legislature of Virginia advised a convention for establishing a better system of commercial regulations. Pursuant to this action, a convention was called to meet in Annapolis, in September. As five states only had sent delegates, no action was taken by the delegates present, except to unite in a call for a convention to revise the Articles of Confederation. The colonies responded to this call and sent delegates to Philadelphia, in May, 1787; Rhode Island being the only colony not represented. George Washington presided over the convention, which was composed of the ablest men of the colonies. The convention soon decided that it was not advisable to amend the Articles of Confederation, and it proceeded to form a constitution upon a different plan. The constitution was completed, adopted, and signed, September 17, 1787. The several states ratified it as follows:—

Delaware	December 7, 1787.
Pennsylvania	December 12, 1787.
New Jersey	December 18, 1787.
Georgia	January 2, 1788.
Massachusetts	February 6, 1788.
Maryland	April 28, 1788.
South Carolina	May 23, 1788.
Connecticut	June 9, 1788.
New Hampshire	June 21, 1788.
Virginia	June 26, 1788.
New York	July 26, 1788.
North Carolina	November 21, 1789.
Rhode Island	May 29, 1790.

As provided by itself, the constitution took effect June 21, 1788, upon its ratification by the ninth state. It could affect those only which ratified it. Soon after it went into operation, it was ratified by the remaining states, and became the constitution of the NEW NATION.

When the time came for the organization of a new government, the people were prepared for a popular form, such as the nation now has. With the exception of Georgia, all the colonies had enjoyed something of a popular form of government, and most of them had felt the satisfaction that results from a legislature elected by the people and responsible to them. Some of them had even had a double legislature, though in a crude form, the council being a sort of upper house in some of the colonies. Three had tried a pure democracy, for a time. Most of them, by co-operation with sister colonies, had known by experience that "in union there is strength," and this had been more fully impressed during the struggle for independence. That last great struggle had taught them the necessity for an executive and a judicial department of the government. The Colonial Congress and the Continental Congresses were felt to have been, as they really were, but committee-delegates from the colonies for advice. A confederacy had been tried; its defects were found to be serious. The people were prepared for a union of the colonies into a nation, having all the semblance, character, and powers of a nation. The people were prepared, also, to insist, if need be, upon a form of government in which all political power should reside in themselves. Having tasted, though but daintily, of the sweets of a government free from hereditary rulers, and without the restraints and oppressions of arbitrary authority, they were prepared for a government of the people, to be administered by the people and for the people. We shall see, as we study the provisions of the constitution, how they wrought out the idea of nationality and of freedom, which had been growing for more than a century.

PREAMBLE OF THE CONSTITUTION.



THE courts do not regard the preamble of a law or of a constitution as a part of that law or of that constitution. But when any portion of a law or constitution is not quite clear, or is not easily understood, the courts will turn to the preamble for explanation. In the historical and political study of a constitution of a state or a nation, the preamble may be a very important part. This is especially the case with the preamble of the constitution of the United States. It explains the necessity of the constitution, the purposes of it, and by whom it was formed. A reference to the preamble of the constitution has settled more than one point of political discussion concerning the extent and scope of several constitutional provisions. The preamble states seven points concerning the origin and purpose of the constitution.

1. By whom formed.—This preamble decides who formed the constitution and who constitute the nation. The Articles of Confederation, under which the Thirteen Colonies had been united during the larger portion of the period since the beginning of the Revolutionary War, were articles of agreement between the colonies. They united the colonies into a confederacy, but they did not form them into one nation. Under these articles each colony was as independent of all others as it had been before. Although they contained agreements that no colony would act independently in certain matters, there was no means provided by which those agreements could be enforced. In fact, there were several sections of those articles under which some of the colonies refused to act. No nation

can be formed of sections of country which are free to obey or disobey the provisions of the national constitution. . Under the constitution the states became a Nation. Certain rights which each state had possessed were given up, and each one thereby became a state in the nation, with such rights of independent action as were reserved or allowed by the constitution. In the Articles of Confederation, the colonies styled themselves states, but their character as states was altogether different from their character as states under the constitution. The preamble expressly declares: "We, the People of the United States, do ordain and establish this constitution." After its adoption by the convention, it was submitted to a popular convention in each state. The members of those popular conventions were elected by the people of each state, after a thorough discussion of the constitution. Through the adoption of the constitution the states were more firmly united and the people became one nation. Discussion is likely to arise always, concerning the extent of the powers given to the general government and concerning the rights and powers reserved to the separate states by the constitution, but it is clear that the people of the United States are, under the constitution, ONE NATION.

2. More Perfect Union. — The principal purpose of the Articles of Confederation was to enable the colonies to act together in resisting the aggressions of England. For that one purpose, even, it was not perfect. But after the close of the war, an attempt to govern the colonies under those articles showed the weakness of the confederacy. There were four principal weak points in the confederate system: (*a*) There was no central legislative authority. There was a so-called congress, composed of delegates from each colony, but its authority seems to have been restricted to the settlement of disputes between themselves, and to representing the colonies in their intercourse with foreign nations in war and in peace. The congress was simply a committee of the colonies. (*b*) There was no central execu-

tive authority. (c) There was no judicial system. The only semblance of such a system was the authority given to the congress to determine disputes between the states, and disputes arising from conflicting grants of land by different colonies. (d) There was no national treasury. The congress fixed the proportion of money due from each state for the general expenses; but it had no method of collecting it. Without the four marks of national authority named above there could be no nation. In addition to these, there were no means provided for keeping the colonies together if they did not wish to so remain. In name, the articles were to be perpetual; but there was no method provided for making them so in fact, and no means furnished for compelling a state to perform its agreements. The weakness of the confederacy was found in this: the states acted and were acted upon as independent bodies. Under the constitution, the states are hardly known in the administration of the government, but the government and its officers act upon the individual citizens. It will be noticed that the word "union" means a condition of being one; hence, a perfect union must be a perfect oneness. The colonies could not retain their independence and be states in a perfect union.

3. To Establish Justice. — This was a second object of the constitution. This is the same as saying that the constitution was formed for the purpose of protecting all its citizens in the enjoyment of all their rights. (The student should trace "justice" to its Latin root-word "jus," *right*.)

4. Domestic Tranquillity. — There can be little, if any, enjoyment of rights when society is disordered. The framers of the constitution had realized that fact during the Revolutionary War. Turmoil and trouble arise mainly from injustice and oppression; hence the constitution aims to secure tranquillity through the establishment of justice.

5. Common Defense. — The formation of the confederacy was the result of a necessity to provide for the defense of the

people of the colonies. All nations must provide for their defense, must always be ready to resist attack. All governments have this as one of the necessary objects of their existence. This means more than simply a defense of the national existence, of its governmental character. It must mean a defense of all parts of the nation and all the citizens of the nation. Upon the modern and best theory of government, the humblest citizen of a nation is entitled to the whole power of the government, police, military, and naval, to protect him in the enjoyment of his rights at home and abroad.

6. General Welfare. — Monarchs are not always very solicitous about the welfare of their subjects ; they seldom are except so far as that welfare can help them in their ambition. This is because the interests of the rulers are not the same in monarchies as the interests of the ruled. In the formation of the government of the United States it is provided that the rulers and the ruled shall be the same, and that their interests shall be the same. Everybody is thus interested in the welfare of everybody else. It was a great step in the history of governments when the promotion of the general welfare of the people was made a prominent purpose in the construction of a form of government.

7. Secure Liberty. — It would seem that, when justice is established, domestic tranquillity assured, and the general welfare promoted, the blessings of liberty would be sure to follow. But the patriots who framed the constitution chose to enumerate this as one of the objects of the government, so that there could be no chance for a mistake on this subject. The war of the Revolution had just closed, and the right to liberty had been secured, but they knew that liberty itself could be secured and made permanent only by a wise, liberal, and just government. Such a government the convention attempted to frame. This section of the preamble shows that it was intended that the form of government should be permanent.

BILL OF RIGHTS.



THE convention adopted the constitution, September 17, 1787, and delegates from all the states, except from Rhode Island, signed it. When the constitution came before the people of the states for ratification, it was found to be deficient in an important particular, — it did not recognize in words many of those personal rights which the people believed themselves to possess. Some of those rights had been announced in the Declaration of Independence, and for them they had carried the war of revolution to a successful close. In order to avoid the loss of time and expense of another convention, it was generally agreed that the first Congress should propose proper amendments covering the deficiency. With this understanding, the constitution was ratified by states enough for it to take effect. Two states, Rhode Island and North Carolina, did not ratify it until after the adoption by Congress of the proposed amendments. These amendments embrace what is known in state constitutions as Bill of Rights. They recognize and secure fundamental rights which no legislature, no decree of courts, no act of the executive authority, can violate. They are considered inestimable and, in the language of the Declaration of Independence, “unalienable.” An inspection of the constitution will show that it contains six provisions which might be embraced in the Bill of Rights. All the others are found in the amendments. It will be more convenient and add to clearness of apprehension to bring them all together under one head.

1. Habeas Corpus. — When a person is illegally imprisoned, he may apply to a court for his release, stating the facts

that show the illegality of his imprisonment. The court then issues an order to a sheriff or constable, directing that the imprisoned person be brought before it for inquiry into the cause of the imprisonment. In early times, in England, the orders of the courts were written in Latin. Many of the orders of courts are called writs. This writ began, *habeas corpus*, meaning, "you may have the body" of the person named. The right to apply for this writ is one of the safeguards of a free citizen. But for it, a person illegally imprisoned might have no method by which he could prove his innocence. There does not seem to be any reason why the privilege of applying for this writ should ever be suspended; but it is a wise provision refusing its suspension in times of peace. This provision is found in section nine of Article I.

2. Bill of Attainder. — In the same section of Article I., it was provided that no bill of attainder shall be passed. This is a direct restriction upon the powers of Congress, but it has a more general effect. The restriction is upon all the officers of the government; for if Congress should pass such a bill, the oath of every officer of the government will compel him to refuse to enforce it, and the courts would be compelled to declare it illegal. A "bill of attainder" is a special law that passes a decree of conviction, upon the person named in it, of treason or other crime, with sentence of death or forfeiture of estate, or both. Such bills were not uncommon during the troublous times of English history. The accused had little, if any, opportunity to make a defense. The injustice of this system of trial for crimes was so apparent that the framers of the constitution provided against its use in this country.

3. Ex Post Facto Law. — The same section of the constitution also forbids the passage of an *ex post facto* law. This term means, "after the deed." It is usually applied to such laws as relate to actions already past. As every one is supposed to guide his conduct, civil and criminal, by the laws in force at the

time that he performs an action, it is not considered just that one should be punished for a crime more severely than the law provided when the crime was committed. Thus, a man may be willing to incur the penalty of imprisonment in the penitentiary for horse-stealing, while he might not steal the horse if the penalty had been death. Therefore, after a man had stolen a horse, when the penalty of the law is imprisonment, it would be a breach of faith and an injustice to change the penalty to death, and then enforce it upon him. And so with reference to other crimes. No increase of a penalty for a crime can be visited upon a person for a crime committed before the increase. So, a law cannot make a new crime, and then punish a person for a deed committed before the law made that deed a crime. In civil transactions, the rule is the same: no change in a law can affect any contract made before the change. This rule is founded so strongly in our sense of justice that it might be said to protect an inherent right.

4. Jury. — The right to a trial by jury, when charged with a crime, dates from very early times in English history, and, in the law of England, means by a jury of twelve persons. In England, as in other monarchies, all crimes that were committed were committed against the king or monarch. All prosecutions for crime were brought in the name of the king. The king appointed the judges and all the other officers of the court. The subject had little security when charged with crime. He could be convicted, if the king so desired, without regard to his guilt or innocence. It was a great reduction of kingly power, when the king of England was compelled to allow the trial of his subjects by a jury of their peers. Ever since then, the right to trial by a jury has been considered very important, and no king of England could retain his crown should he try to abrogate the right. The reason for insisting upon a jury in the United States is not so strong as in England. Here the people are the rulers; their judges and other officers of the courts are

elected or appointed, and all prosecutions are brought in the name of the people, or of the state. The people, just emerging from a war with England, thought it safer to insist upon this right (Art. III., sec. 2).

5. Rights in Other States. — In the second section of Article IV., it is provided that “the citizens of each state shall be entitled to all privileges and immunities of citizens of the several states.” There is much question as to the full meaning of this provision; the courts are neither clear nor uniform in their attempts at interpretation. It would appear to be one of the provisions enforcing the idea of one nation. While each state is permitted to determine for itself the qualifications of all who may vote or hold office within it, it cannot prohibit the citizens of other states residing and doing business within its limits. Thus, the citizens of any state, by residing within another state, may enjoy all the privileges and protection enjoyed by any citizen of that state. This section would seem to place all citizens of all the states upon an equality, except in respect to the affirmative rights that are considered inherent and inalienable. These cannot be called privileges.

6. Religious Freedom. — The last clause of Article VI. says that “no religious test shall ever be required as a qualification to any office or public trust under the United States.” The scope of this section is very broad, very much broader than, at first, appears. It means that no one has a right to regulate our conscience, or our worship, for us; nor has any body of people, whether legislature, congress, or nation, any such right. That a person belongs to any particular church, or does not belong to any, or that he entertains a certain religious belief, cannot be urged against him as a qualification or a disqualification for office or for jury service. This does not say, nor does it mean, that the nation, or the law, or the courts, only, shall not apply the religious test: it means that no one has a right to apply that test. If a voter votes for, or against, a

candidate solely because of that candidate's religious belief, such voter would violate the spirit of this part of the constitution. Upon the best theory of government, the secular authorities have nothing to do with a person's religious belief. Americans do not believe that the conscience should be placed under the control of men. They believe that all men should be protected in the full and free enjoyment of their religious beliefs, and they emphasized that belief in this provision of the constitution.

7. (Amendment 1.) — At the time of the formation of the constitution, nearly all the governments of Europe had an established religion; that is, a religious system which was supported by the government and to which each subject had to assent, in some degree. These governments also prohibited, some of them always, some of them sometimes, any criticism of the government, by individuals, either orally or in writing or print, and did not allow the people to meet peacefully for a discussion of their relations with the government, nor to petition the government. The people of the colonies had keenly felt the injustice and the actual hardships of these prohibitions. They came to regard all these acts as perfectly innocent, and as rights that belonged to them as human beings. They constitute a portion of the means by which the people can enjoy the right to "the pursuit of happiness." Accordingly, the first amendment to the constitution contains a recognition of the rights of the people in all those respects. Of course, this provision does not allow disorderly meetings, nor conspiracies to resist the execution of the laws, nor attempts to overturn the government.

8. (Amendment 2.) — Rulers who do not have the love and affection of their subjects cannot safely allow those subjects to keep and control fire-arms. It is a matter of history that the subjects of those European governments which furnished the early settlers of the United States did not have that privilege.

As has been shown, the framers of the constitution intended that the rulers and ruled should be the same ; that there should be no fight between the government and the people. In the early history of the American colonies, the safety of the people often depended upon arms which they kept in defiance of the government, more than upon any army, and the danger from Indians had not altogether ceased when the constitution was formed. A government that would trust its citizens with freedom to keep and to bear arms must preserve its character for justice, and it was partly for this purpose that the right of the citizens to bear arms was formally acknowledged in the constitution.

9. (**Amendment 3.**) — This amendment recognizes that each man's house is his castle, to be his defense against the government as well as against his neighbors. In times of peace there can be no necessity for any encroachment upon a man's private dwelling. A necessity may exist in times of war, but it should be exercised only in the manner which the law has deliberately provided. Such encroachments upon private rights should not be left to the irresponsible discretion of any officer. This provision virtually condemns the practice so common, once, in Europe.

10. (**Amendment 4.**) — There can be no liberty among the people without this protection. No person is free if his home or his property can be invaded or seized at the pleasure of another. The right to the uninterrupted enjoyment of one's property is included in the right to "the pursuit of happiness," which the Declaration of Independence declares to be inherent. This is on the theory of Shylock's famous remark : —

" You take my life
When you do take the means whereby I live."

— *Merchant of Venice, Act IV. Sc. I.*

This provision introduced a feature new to governments at that time, although the English government had been forced to a slight change in the direction of this section. Other governments searched private property at pleasure, and many do now. Under the laws that have been passed to carry out this provision, before a search can be made, a sworn complaint must be made to a judicial officer, stating minutely what places are to be searched, or what things or persons are to be seized, that the person making the complaint has the right to the things described, or that the person named has committed a crime named. Such search or seizure will be authorized by a warrant from an officer, and must be made by an officer. An officer, or other person, who searches a place, or who seizes a person or things without such a warrant, is guilty of a crime and can be punished.

11. (Amendment 5.) — (a) **GRAND JURY.** In order that prosecutions for suspected crimes may not be entered upon lightly, and that the person suspected of crime may not be put to the expense and annoyance of a defense if innocent, a grand jury, consisting of not less than sixteen, and not more than twenty-three men, as the judge may order, must first hear the evidence for the government. If this evidence is so strong as to convince the grand jury that the suspected person probably committed the crime, it makes the charge, stated in minute detail, called an indictment. This indictment is usually written by the attorney for the government. Upon the back of this indictment the foreman of the grand jury writes "A true bill," and signs his name beneath. Until this indictment is so found by a grand jury, no person can be tried in a United States court for a crime punishable by death, or by imprisonment in the penitentiary. The reason for a grand jury is the same, in other respects, as the reason for a trial jury. (See page 27.) This system does not always protect the citizen against hasty or unjust prosecutions, but it usually does so. The army and

navy could not enforce their needed discipline by any such system. In those branches of the service, there is a necessity for prompt punishment of offenses. Hence, this system is not used in the trial of offenses against military and naval rules. When the militia of any state is in actual service, it is in the position of the army, and is excepted from the grand jury system.

(*b*) **TWO TRIALS.** In some European countries, even now, it is not uncommon for the government to hold a person after acquittal to try him a second time, or more. This is neither right nor just, because the government is so much stronger than any individual, and can conduct prosecutions at less expense. Thus, a government could ruin any individual at its pleasure, if it were allowed to continue to try him until it found a jury that would convict. The necessity for this prohibition is not so strong in the United States as it was in England, or in any monarchy. But even in this country, where party feeling often runs high, leaders opposed to the governing party might be accused of crimes and held for repeated trial, even if innocent, so as to remove their influence, if there were no constitutional prohibition. Sometimes a guilty person will be acquitted, but it is an adage of some force, that it is better for nine guilty persons to escape punishment than for one innocent person to suffer.

(*c*) **TESTIMONY.** In criminal trials, the government makes a charge against a person, and that person denies the charge; as, in civil cases, the plaintiff makes a charge against the defendant, and the defendant denies it. It is considered just that those who make charges against others must furnish the proof. So the government ought to be compelled to furnish the proof of crime before a person can be convicted. The practice, not infrequent in earlier European history, by which the accused person was compelled to testify and to furnish the proof of his crime, often having the testimony extorted under torture, is abhorrent to our sense of justice and humanity.

(*d*) **DUE PROCESS OF LAW.** This term is interpreted by the courts to mean those proceedings and those forms prescribed by statute or by the common law. This means that before any one can be punished for an offense by death or imprisonment, and before he can be arrested, even, for an offense, and before the government can take the property of an individual, either as forfeiture or for public use, the law must state all the circumstances under which either can be done. That is, the law must state what shall be the punishment for a crime before one can be punished for that crime. The law must also state the manner and method of all the proceedings in the arrest and trial for the crime, as well as the manner of punishment. So, the government cannot take the property of any one for public use until the law has set out the uses for which it can be taken and the method of taking it.

(*e*) **EMINENT DOMAIN.** It is recognized, almost universally, that the rights of the many are above the rights of the individual. Indeed, there could be no government except upon this theory. Therefore, when the public needs the property of an individual, it has a right to take it. While all governments have always acted upon this theory, they did not formerly recognize any obligation, resting upon the government, to pay for the property so taken. The founders of our system of government saw the justice of paying for property taken. All the citizens have an interest in the government, and all derive some benefit from property taken for public use. Common justice demands that those who receive benefits should pay for them. Besides, if compensation were not obligatory, the door would be open for the rankest oppression on the part of the men who have the selection of the property needed, and leading opponents of the party in charge of the government could be, and probably would be, often ruined.

12. (Amendment 6.)—This section also was a departure from the practice of many European governments. Under that

practice, a prisoner had none of the rights herein named. Some of them might be, and often were, granted to prisoners as favors, but never as rights. Prisoners were often confined in prison for years without being tried, and sometimes they died there without trial. This was especially true of those charged with state or with political crimes. Some were taken for trial to distant places, away from their friends and their witnesses, frequently without any knowledge of the nature of the crime imputed to them. All this made their defense more difficult, and their conviction more easy. The prisoner was often kept ignorant of the persons who testified against him, as well as of the nature of the testimony, and instances were not rare in European history in which he was not allowed witnesses in his behalf. Until quite recent times, even in England, the prisoner was not allowed to have a lawyer to help him make his defense. In all respects, he had to make whatever defense he did make in the dark. A bare statement of the course of European courts, in criminal prosecutions, is enough to show its injustice, and the wisdom of the amendment prohibiting such practice in the United States.

13. (Amendment 7.)—In England, the right of trial by jury dates from very early times, and means a jury of twelve men. The jury-system, then, was a great protection against the oppression of the courts. It enables all suitors to have the people decide the facts of their case, while the court decides the law. This was so important to English subjects that the framers of the amendments to the constitution made this one of the constitutional rights of the American citizen. The form and character of the government of the United States are so different from those of the European governments, that the jury is not so important to us as to Europeans. Its abolition is seriously discussed. It has been modified in many of the states. The common law (the rules of proceedings in the courts of England at the time of the formation of

the constitution) provided methods for having suits re-examined in higher courts, and this amendment prohibits such re-examination, except by those methods of the common law, and prohibits any change in those methods.

14. (Amendment 8.) — When a person is accused of a crime and he cannot be tried at once, he is usually admitted to bail, if the crime is less than murder. To give bail is to give a bond with security that he will be at the court and submit to his trial. When this bond is given, the accused is allowed to go free until the time set for the trial. The amount of this bond must correspond with the seriousness of the crime charged. One hundred dollars might be a sufficient bond in a case of assault and battery, while five thousand dollars might not be too much in a charge of manslaughter. In cases of stealing, the bail is usually fixed with reference to the amount stolen. In theory, the bail should be so high that the accused cannot afford to run away from trial, and yet not so high that he cannot find friends enough to advance the security. If the bail is for a greater amount than is necessary to secure his presence at the trial, it is excessive. “Cruel and unusual punishments” are such as have not been inflicted under the common law.

15. (Amendment 9.) — The old theory of government was that the people possessed no rights. Privileges might be granted to them by the sovereign and withdrawn again at pleasure, and often were. The ruler alone had rights. The sentiment of the civilized world was changing slowly upon this point at the time of the Revolution, and the people of the colonies claimed personal inherent rights to life, liberty, and to the pursuit of happiness. It was not settled, when the constitution was formed, what the limits were to the rights that were inherent, and the people feared that a failure to name a right, in the constitution, might be construed to mean a denial of its existence. In order, therefore, that the people might not be deprived of any right which they had possessed, this amendment was adopted.

16. (Amendment 10.) — The government of the United States is confessedly one of delegated powers, only. It has no power except such as is given to it by the constitution. This would seem to be plainly set forth in the constitution itself. But the people had just been emancipated from a government that claimed to possess inherent and unlimited power, and they had suffered severely under that government. They were naturally distrustful of governments, and feared that the new government might arrogate to itself the powers that other governments claimed. Under this amendment, when no power is given over a subject by the constitution, and is not prohibited to the states, such power resides still with the people of the states. But this amendment should not be construed too strictly. It is held by courts and statesmen, that the grant of a power to an officer or to a political body carries with it all the power that is needed to make that grant effective. Thus it has often been found, in the history of the United States, that certain action, on the part of Congress or of the President, has seemed necessary in the due and proper administration of the government, and yet the constitution has given no authority for the performance of such action. So, during the late civil war, Congress and the President took action in many cases which seemed to them of doubtful constitutionality, while yet such actions were essential to the success of the war. They felt that they were bound by their oath of office, and by their feeling of patriotism, to preserve the Union at all hazards. Courts have held, in the case of inferior officers whose powers and duties are strictly defined, that the authority to do an act carries with it authority to use such means as are necessary for the accomplishment of that end. In such spirit, this amendment should be construed.

17. (Amendment 13.) — By the adoption of this amendment, in 1865, it may be considered that another section was added to the Bill of Rights. Although the Declaration of Independence

used very general terms in its announcement that "all men are created equal," and are endowed with rights to "life, liberty, and the pursuit of happiness," the government was administered, for nearly ninety years, on the theory that white men only possessed those rights. Those who claimed a right to hold slaves disclaimed the pretense that that right depended upon the color or nationality of the persons held. This theory was undermining the right of white men to their liberty. The failure of the war of 1861-65 gave the opportunity for a permanent statement in the constitution of the inherent and inalienable rights of all the residents in the United States to life and liberty. Thus the constitution was brought into harmony with the Declaration of Independence.

18. (**Sec. 1, Amendment 14.**) — On page 27, doubt is expressed as to the precise meaning of the first clause of section two, Article IV. This amendment seems to supplement that provision. Under this section, all persons born or naturalized in the United States, and residing therein, are citizens of the state in which they reside, and whatever privileges or immunities any state bestows upon one citizen must also be bestowed upon all the others. This amendment was adopted in 1868 as a protection to the newly enfranchised citizens of the states lately in secession, to whom equal protection of the laws, and equal privileges, were denied. The effect of this amendment is to create but one standard of citizenship in all the states and to compel each state to recognize the citizens of all other states as citizens of itself upon their removal within its borders. It may be a question how far the citizen of one state, removing to another state, can have his privilege to vote and to hold office and to sit on juries, curtailed or restricted.

19. (**Amendment 15.**) — This article recognizes, by implication, the right of a state to restrict the right or privilege to vote for some reasons, but it prohibits such restriction for reasons of race, color, or previous condition of servitude. So far then as

a constitutional provision can confer a right, this amendment may be said to recognize the right of a citizen of the United States to vote, and it refuses to allow a denial of that right unless such denial is based upon reasons that apply to all races and colors.

THE STATE.



SOON after the formation of the constitution it was expressly stipulated by the tenth amendment that all powers not granted therein to the United States, nor prohibited by it to the states, were reserved to the states themselves. Each state has a system of government which concerns itself more completely with local affairs and interests than the national government does. Each has a sphere of rights, duties, and privileges, apart from the other. The state government is divided into three branches: executive, legislative, and judicial.

Officers. — The general officers of a state usually are a Governor, Lieutenant-Governor, Secretary of State, Treasurer, Attorney-General, and Comptroller or Auditor.

THE GOVERNOR is commander-in-chief of the military forces of the state, and it is his duty to see that all the laws are executed. When the legislature assembles, he sends it a message, giving such information as he deems necessary, and recommending such measures as he thinks advisable. He may call a special session of the legislature if he finds it necessary. In some states he may grant pardon to criminals, but in others he can only do this by and with the consent of certain official advisers designated by law. All bills passed by the legislature need the approval of the governor before they become laws. If he does not approve of a bill he may return it to the house in which it originated, stating his objections; if the two houses still concur in passing it, notwithstanding his objections, it then

becomes a law the same as if he had approved it. But the majority of each house, to pass a law in this manner, must be greater than before; in some states a majority of two-thirds is required, and in others a majority of all the members elected to each house is sufficient. This function of the governor in legislation is called the *veto power*, and it is one of the most important with which he is vested.

In most states the **LIEUTENANT-GOVERNOR** is President of the Senate and has the casting vote. Through the death, resignation, impeachment, or other disability of the governor, the duties of that office devolve upon him for the rest of the term. In Massachusetts the lieutenant-governor is an *ex-officio* member of the Governor's Council, but has no duties in connection with the Senate. In a few of the states there is no such officer. Maine is an example; the Constitution not providing for a lieutenant-governor, the President of the Senate, elected by that body, assumes all the duties of the office upon the death, resignation, or impeachment of the Governor.

THE SECRETARY OF STATE is the keeper of all the official records, executive and legislative, and of the election returns, and may furnish certified copies of the same to all persons authorized to receive them.

THE TREASURER has charge of all the money paid into the treasury, paying it out again upon warrants properly certified.

THE ATTORNEY-GENERAL appears on behalf of the state in all litigation in which the state is an interested party, prosecutes criminals, and prepares drafts of contracts, and other papers on behalf of the state.

THE AUDITOR, OR COMPTROLLER, as he is called in some states, audits and settles accounts due to and from the state.

estimates the amount of revenue needed, and superintends its collection. He makes an annual report, with suggestions, in regard to the financial condition of the state.

The Legislature. — This is composed of two branches, a Senate, and a House of Representatives, or of Assembly, as it is called in some states. Each branch has a presiding officer, a President in the Senate, and a Speaker in the House, a Clerk, Sergeant-at-arms, and other officials necessary to preserve order, and for the convenience of members. The method of procedure is much the same as in the Congress of the United States, and each branch within the sphere of the state government has powers and duties similar to those granted to and exercised by each branch of Congress.

The Judiciary. — Each state has a number of courts for the trial of offences against persons and property, and for the settlement of disputed questions between citizens. The method of appointment of judges of these courts is not uniform in all the states: in some they are appointed by the governor, generally with the approval of some other officials designated by law, and their term is often during life or good behavior; whether elected or appointed, the term of office is generally longer in higher courts than in lower ones. Limitation on account of age is usual.

These vary in their jurisdiction, from the justice's court, which may try the smallest cases, to the highest appellate court. If a person is dissatisfied with the decision of a lower court, he may generally have his case carried to a higher one; and if the cause be of sufficient moment, he may carry it to the highest court for final decision.

Probate Courts. — That court which comes nearest to the whole people is the one that takes charge of the wills

of deceased persons, and under whose direction their estates are administered. The property of those who die without making a will is administered upon by a person appointed by this court, called an administrator. Under a will this court sees that all its provisions are faithfully carried out by the executor. The estate is in the hands of the court till the debts are paid and the remaining property distributed according to the will, or among the next of kin as provided by law.

In the different states this court does not always have the same name. There are Probate Courts, Surrogate Courts, Courts of Widows and Orphans, and in some cases this business is taken charge of by the County Court. Except in the case of a contested will, all the proceedings are very simple and informal.

The State is subdivided into counties, and these into cities, towns, and villages, or boroughs.

Each state has a constitution of its own which was made by a convention chosen by the people, and generally adopted by a popular vote. Its powers are exercised through three departments — Legislative, Executive, and Judicial.

The state makes and executes laws for the general welfare of all the citizens. It lays and collects taxes for the support of schools to educate its citizens, and promote general intelligence. It provides means for the restraint and punishment of the vicious and criminal; it directly supports, or aids in the support of, some classes of the poor, and makes provision for the unfortunate lunatics, imbeciles, and the sick and crippled. It is the policy of all governments, however, that this support shall come from the place where the disability was incurred, or the person has secured a legal residence.

The County. — The usual county officers are a judge, generally of probate, sheriff, clerk, treasurer, registrar, district attorney, coroner, and a board of commissioners, which in some states are called supervisors, freeholders, etc. Many of the states also have county superintendents or commissioners of public schools. These officials have various duties to perform, as their titles indicate.

In most states the county judge presides at county courts, attends to the probate of wills, and estates of deceased persons are settled under his direction, where there is no probate judge or surrogate; the sheriff is to arrest persons charged with crime, have the care of criminals and of the county buildings, including the jail or penitentiary, maintain order in court, and be the general peace officer of the county. The county clerk is usually clerk of courts held in the county, and administers the oath to jurors and records the judgments of the courts.

The treasurer receives the money collected for county taxes and pays it out for expenses, as directed by law. The district attorney is the prosecuting officer for the county; it is his duty to look after offenders, draw bills of indictment when found by the grand jury, and try the cases before the court. The coroner holds inquests upon the bodies of those suspected of death through mysterious or unlawful means. The county commissioners, etc., look after the county highways, bridges, buildings, etc. The county superintendent, or commissioner of schools, licenses teachers, visits schools, and apportions public money for their support, as directed by law.

The City. — Most cities are governed by written charters received from the state. The usual officers are the mayor, aldermen, assessors, board of education, marshal,

or chief of police, superintendents of schools, streets, lamps, and public buildings. The aldermen, or city council, pass by-laws for the government of the city, such as are within the powers granted them by their charter, and provide means for their execution. The most common subjects for their legislation are the streets, sidewalks, pavements, lighting, water supply, protection against fires, and of public health.

The mayor is the executive officer of the city, and it is his duty to see the laws enforced. He also may veto the ordinances passed by the city council. The city courts try offenses against the city ordinances, and cases of theft and violence arising under the general statutes. It is the duty of the marshal, or chief of police, to see to the execution of the orders of the court.

The Town, Village, or Borough.—The town governments of New England are the nearest to the ideal of a pure democracy. Here the people assemble annually in town-meetings at the call of the "Selectmen," to choose the town officers for the ensuing year. They first choose a Moderator from among their number, to preside during their meeting and to preserve order. They hear the reports of the doings of their servants for the past year, and elect them or others for the ensuing year. At this meeting they vote how much money the town shall raise for taxes for the year, and how and for what purposes it shall be expended: so much for schools, for highways, for the support of the poor, for a fire department, and for improvements. All are equal; and many local affairs are legislated upon and decided by popular vote in town-meeting that elsewhere are delegated to elected officers.

A village sometimes has, and a borough always has, a

charter from the state enabling it to do many things that cannot be done under a town government; its powers to employ police, buy fire apparatus, pave and grade streets and walks, protect public health, introduce water, light streets, maintain schools, and make improvements, are in many respects equal to those of the cities.

Minor divisions of a town or township are usually school districts, with power to appoint trustees or directors, raise money for the erection and repair of buildings, and, in some cases, for the support of schools and the employment of teachers.

Voters.—To have the privilege of suffrage a person must generally be a citizen of the United States, and a resident of the state for one year, and of the town or county where the vote is offered for the last six months preceding. Some of the states are rather more liberal in their provisions; and some have amended their laws so that women having certain qualifications may vote at school meetings, and vote for and serve as school officers.

But in general, voters must be male persons, twenty-one years of age, and neither paupers, convicted criminals, lunatics, idiots, or non-residents. The voting is by ballot, and in places too large for the officers appointed by law to supervise the elections, to know each voter personally, various registry and other laws have been devised to protect the purity of elections, and to secure “a free ballot and a fair count.”

An Alien may enjoy all the blessings of our free government, but he can have no voice in framing its laws, or part in their execution; he must pay taxes the same as the citizen, and he is benefited equally in their expenditure; but the amount to be raised, and the purposes for which it

shall be expended, are determined by citizens only. The alien may have the same civil and religious rights as the citizen, but not the same political rights, unless after a residence for a suitable term of years, he abjures allegiance to the government under which he was born and swears fealty to our government.

Laws. — The sources of the laws affecting the American citizen are two: the common law, which derives its force, as a rule of action, from established custom and long usage, and has been immemorially received and recognized by judicial tribunals; and law which has been enacted by local, state, and national legislatures. These derive their authority from constitutions and charters framed by the delegates of the whole people and afterward adopted by another set of delegates or by the majority vote of the people. The common law, which is unwritten law, prevails wherever there is no statute law which virtually repeals it. The statute law is enacted by the representatives of the whole body politic, is approved and enforced by its executive officers, and in case of violation or difference of interpretation, its judiciary declare its meaning and pronounce its penalties.

The object of all law is twofold, — protection to person and to property; all violations of human law are of one of these two classes of offenses. As the individual in organized society gives up some of his natural rights, he acquires in return the right to protection by society in the enjoyment of the fruits of his labors, securing to him the greatest freedom consistent with the freedom and rights of others. This liberty is mainly freedom from molestation or interference by others, so that the individual may be able to attain to the highest intellectual, physical, moral,

and religious culture of which he is capable ; and he may have the utmost liberty of speech, thought, and action, so far as the exercise of these do not interfere with the enjoyment of the same rights by others.

Education. — In a popular government like ours, where every citizen has a voice and vote in public affairs, it is of prime importance that this vote should be an educated one. The intelligence of the people is the safety of the state. High aims and noble purposes are handmaids of education, while ignorance tends to idleness and vice.

Hence in a republic the people are willing to tax themselves freely for the support of schools ; to erect good buildings, furnished with necessary apparatus, and presided over by competent teachers. And hence too, in many states, considerable funds, derived from the sale of public lands and from other sources, have been set apart, and the income forever dedicated to this purpose.

Most, if not all of the states, also have established normal schools for the better preparation of teachers for their work, where any person of suitable age and character can obtain an education, tuition free, and other privileges, upon the promise to teach within the state a certain number of years after graduating.

The states generally have a Superintendent of Public Instruction, or some officer that acts as such. In most of the states the counties too have such an official. The county superintendents report to the state superintendent, and he in turn to the legislature annually, what has been done in his department the preceding year, and makes such recommendations as he thinks necessary to further promote the interests of the schools. Where there are no superintendents for the counties, the local officers

of each town, school district, or city, report the details of educational work for the year to the state superintendent.

Several of the states have a compulsory education law, by which children between certain ages are obliged to attend some school a specified number of months in each year. The course of study in the different states is widely various; in some the law commands the maintenance of high schools, where pupils may be fitted for college, or given a corresponding education in all the higher branches; while in others the high school is a matter of local choice and provision; and in still others public schools impart only the most elementary instruction.

Licenses to teachers are granted by state, county, and local authorities; the requirements in different localities are widely different, and the proficiency and acquirements of teachers vary accordingly. But in all the states the standard is being raised, in response to the demands of the people for better educational facilities. The subjects of healthful location of buildings, proper ventilation, and heating and lighting, and general sanitation, are receiving in most localities the attention that their importance requires.

Marriage. — In this country, where the population nowhere crowds upon the means of subsistence, every encouragement is afforded by social and civil society to all persons of suitable age and habits to enter into the marriage relation. In some of the crowded countries of the old world the opposite state of affairs exists, and obstacles are thrown in the way of marriages.

The state regards marriage as a civil contract to which each party shall agree, they having arrived at a lawful age at which they can bind themselves by a contract. Relig-

ious bodies usually regard it as much more than a contract to be acknowledged before civil authorities; to them it is a solemn rite, to be administered by consecrated hands. Accordingly, in many of the older countries there is a marriage before both the civil and religious authorities. Generally, in this country, any ordained clergyman, justice of the peace, and higher judicial officers, mayors of cities, and aldermen in some states, may perform the marriage ceremony. No particular form of ceremony is prescribed by the state, or necessary to the validity of the act.

In some states a license must first be obtained from the city or town clerk, or other proper official; in others no such restriction is laid, and any authorized person may perform the ceremony before the necessary witness or witnesses, after having first ascertained that the applicants are of lawful age, and that no just cause or impediment to the marriage exists. All marriages must be reported to the proper local officer of city, town, or county, to be recorded.

Persons of feeble or unsound minds are incapacitated from forming a contract, and so cannot lawfully enter into the marriage relation. There must be neither force nor fraud practised: if there is, the courts may annul the marriage; free consent is necessary in both parties. To contract a marriage there must be no near blood relationship between the parties; cousins may intermarry if they will, but nearer relatives are prohibited from it. The husband is bound to support the wife, and must pay all the bills that she contracts for necessaries, or for such articles as are suitable to their station in life; and even if they are separated, he is often so bound, unless he allows her a suitable sum for her support. Under the common law the prop-

erty of the wife was all subject to the control of the husband. But now, through laws passed by some states, she is enabled to hold, lease, or sell, or make any disposition of it she pleases, nearly the same as if unmarried. The wife may even engage in trade and transact business upon her separate account, and may enter into partnership with other persons, becoming liable for debts as far as her separate property is concerned.

Through the relation of marriage comes the family, and the outgrowth of the family is social and civil organization — the state. Anything that tends to weaken or undermine the sacredness of the obligations of this relation, threatens the foundations of society and the permanence of the powers of the state that conserve and uphold the things that make for peace, purity, and prosperity. The institution of marriage is of divine origin, and the reason for it is found in the constitution of human nature.

Parents and Children. — Under the common law parents were not bound to support their children. But this has generally been superseded by special enactments requiring the support and education of the offspring of marriage, according to the parents' condition in life. Many of the states also have enacted laws forbidding the employment of children in factories, or hiring them out to manual labor under a certain age, or unless they have attended some school a required number of weeks or months in the year. It is the duty of the parent not only to provide their children with suitable food and clothing and education, but also to see that they have proper moral and religious training. Although this is not a legal duty, yet it is one of the highest moral duties that the parent owes to the state.

The rights and duties of parent and child are reciprocal: it is the right and duty of the parent to exercise authority over the child and to properly and kindly restrain and correct him; filial obedience and affection are the duties of the child. As it is the duty of the parent to care for and protect the child in helpless infancy and inexperienced youth, so in old age the parent has the right to receive from the child whatever aid, guidance, and affectionate support he may need.

Taxes. — As the government, whether town, city, state, or national, needs a revenue, it follows that it must have some means of raising money to pay its officers who attend to the different departments of its business, and enforce its laws. This it does by means of taxes.

The state lays taxes for its support, and apportions them equitably among the cities and towns of which it is composed; the county does the same, the city or towns usually providing the machinery by which the taxes are collected.

Taxes are of two kinds, real and personal; and a few states have still a third kind of tax, called a poll tax, which is imposed upon every voter, and is a requisite qualification for the exercise of the right of suffrage.

Real taxes are laid upon houses, lands, mills, factories, etc., while personal taxes are laid upon stocks, plate, money, stock-in-trade, furniture, horses, cattle, etc.

Most property is subject to taxation except the tools and utensils of the mechanic or laborer, public buildings, and such buildings as are devoted to religious and charitable purposes, and the necessary lands for their use.

The valuation of property for the purpose of taxation is ascertained by a board called assessors. The state and county taxes are apportioned to the towns and cities ac-

according to the values thus found. If owners of property refuse the payment of taxes, it may be seized and sold, but generally with the right of redemption.

Another kind of tax is often laid in cities and villages, called an assessment. This occurs where certain property only, or the residents of some streets, by the introduction of improved sewers, laying of new pavements, or opening of new streets, and sometimes by the laying out of parks, are benefited. It would be obviously unfair to tax the whole community for what specially benefits individuals.

For what purpose, then, are these taxes collected, and by what right does the government annually take a small portion of each person's property? The right may be said to grow out of the necessity for the maintenance of an orderly condition of society. Schools must be supported, highways and bridges must be built and repaired; legislative bodies must meet to enact laws, and executive officers must see to their execution. The courts must be open for the relief of wrongs and the punishment of the vicious; the militia must be enrolled, armed, and trained; reformatories, jails, and prisons must be built and maintained for the restraint of criminals; and alms-houses, asylums, and hospitals opened for the unfortunate, the incapable, and the poor.

Juries. — These are of two kinds, grand and petit; the latter is a trial jury, and the former is sometimes called the "grand inquest of the county." The grand jury is charged with the investigation of such crimes and misdemeanors as may be brought to its notice by the district attorney; and where probable cause exists to believe a person guilty of a crime, "a true bill" is found if twelve of them agree that he ought to be brought to trial. Likewise,

the grand jury is often charged by the presiding judge to investigate public abuses and disorder, and make presentment of their findings. Also they may of their own motion visit jails, hospitals, asylums, or other public buildings in their jurisdiction, to ascertain from personal inspection if the laws and rules for their government are observed, and the welfare and order of the inmates properly cared for.

The petit or trial jury must be composed of twelve citizens twenty-one years of age, and they must be of an unbiased judgment in regard to any case that is brought before them. They are sworn to try each case impartially, and render a verdict in accordance with the facts as they shall ascertain them, and of which they are the sole judges. The law applicable to the case is laid down to them in a charge by the judge. The jury must be all agreed upon their verdict; or, if they cannot agree, they may be discharged and another jury summoned to try the case.

Most citizens are liable to jury duty, but some are exempt; as public officials, ministers, lawyers, doctors, teachers, locomotive engineers, and many others whose enforced absence from their usual duties might cause no little public inconvenience.

The right of trial by "a jury of one's peers" is reckoned as a precious heritage of the Anglo-Saxon race. It existed before Magna Charta (1215), and although for a long period subsequently, jurymen were intimidated often, and sometimes punished for rendering a verdict contrary to the wishes of the sovereign, yet the people have held to the right with an indomitable will, until it was freed of these abuses and became what it is to-day.

Militia. — By laws of most if not all of the states, all able-bodied citizens between the ages of eighteen and forty-five are enrolled, and are liable to be summoned for duty as state troops. The executive, judicial, and legislative officers of the state government, and some others, as clergymen, physicians, and firemen, are exempted from this enrollment. The governor of the state is the commander-in-chief of the military forces of the state, but when called into active service, they cannot be sent out of the state without their own consent.

While in fact the militia consists of this enrolled body of citizens, in practice, and as commonly known, the state troops are composed of a volunteer body of citizens who organize themselves under the laws of the state, choosing their own company officers by a popular vote, who in turn choose regimental, brigade, and division officers, who are appointed and commissioned by the governor.

In many states they are furnished by the state with arms, equipments, and armories, and generally everywhere they are aided more or less by the state in the expenses of their organization.

The company officers are a captain and first and second lieutenants; the officers of a regiment are a colonel, lieutenant-colonel, major, adjutant, and chaplain; there are brigade and division commanders, with the rank of brigadier and major-general respectively. The governor of a state can summon the whole or any part of these organized bodies to duty in a time of insurrection or rebellion, or when the resistance to the ordinary peace officers of a county is too formidable for them to overcome.

In the late war, 1861-65, the most of the troops engaged consisted of volunteers raised in the several states, and

afterward mustered into the service of the country, the militia or some part of it most frequently furnishing the nucleus of the organization. As a training school and a rallying point in time of need, as well as for its conservative force, it is of great value. In several states, as in New York and Pennsylvania, this organization is called the National Guard. Sometimes an order to a portion of this force to assemble under arms has the effect of repressing disturbance, quelling turbulent spirits, and averting riot and bloodshed.

Prisons, Asylums, etc. — The states generally provide prisons or penitentiaries for criminals, and asylums for their unfortunate citizens, who, being bereft of their natural protectors, and being incapable of self-support through lunacy, idiocy, or bodily weakness, become a charge upon the state. This is considered a proper object for which a tax may be laid upon the whole people, except so far as, under the direction of their overseers and guardians in these public institutions, they may do something to contribute to their own support. Whatever states do or fail to do to ameliorate the condition of the blind, the crippled, the mentally unsound, the orphans, and other unfortunates, is evidence of their advance in civilization. Towns, cities, and counties also often have such institutions. The inmates of state prisons, being able-bodied persons generally, these may be made self-supporting usually, and no charge upon the public for their maintenance. Cities and counties have jails and lock-ups for a lower grade of criminals, and for the detention of those charged with crime who are waiting trial.

Criminals. — Warrants for the arrest of a person charged with crime may be obtained from a magistrate having

jurisdiction, unless the act be witnessed by an officer of the law, in which case no warrant is necessary. For all the lower grades of offenses the penalty may be awarded by the magistrate without the formality of a trial by jury. The procedure in case of more serious offenses is more deliberate and formal. Usually there is an examination before the nearest sitting magistrate, although that may be waived by the accused, and he be committed without it, to await the action of the grand jury. If an examination is had, and there is probable cause to believe the accused guilty, he is committed, and the evidence is laid before the grand jury at its next session; all the evidence which they look into is that against the accused; and if twelve of this body think there is reason to believe him guilty, a "true bill" is found, and he must be tried in a court having jurisdiction of such cases.

The presumption of innocence is the theory of the law, until the guilt is established to the satisfaction of a jury of twelve men. But still the law holds the accused in custody while he is waiting trial, unless the offense be bailable. Bail will generally be taken in case of most crimes against the person, short of murder, or attempts to commit murder; and in crimes against property, unless an immense sum is involved. The prisoner is generally entitled to counsel, and if through poverty he has not the means to hire a lawyer to defend his case, one may be assigned him by the court. He is entitled to know explicitly with what he is charged, to have time to prepare for trial, and to have the authority of the court for summoning and compelling the attendance of his witnesses.

The law also secures for him a trial before an impartial and unbiased jury. If they acquit him, he is discharged,

but if they convict him, he is either sentenced at once by the court, or remanded to await sentence at a future day. In any grave crimes he may, after conviction, have his case argued upon points of law before a full bench, and if their decision is against him, he may even carry his case to the court of highest jurisdiction in the state. The law allows the court large discretion in awarding penalties; they may be by both fine and imprisonment, or either one, as the court decides. And the law, too, names a larger and a smaller sum for the fine, and a longer and a shorter term for the imprisonment, which shall be fixed by the court as it considers the offence to be aggravated, or to have some mitigating circumstances.

A person restrained of his liberty unlawfully, as he thinks, may sue out a writ of *habeas corpus* and be brought before a court having jurisdiction and demand that good and sufficient cause should then be shown why he should not be set at liberty; if it be shown that he is lawfully held, he will be returned to custody; otherwise, he will be discharged. While it is of great importance that the executive officers should be able to arrest and hold upon probable evidence all offenders, yet this writ of *habeas corpus* is equally necessary for the security of the citizen. It can be suspended only at critical times, and for the gravest causes.

Punishment for crime is a means to an end; the end being the good order and welfare of the body politic; it is not so much for its effect upon the criminal, as for its deterrent effect upon other possible criminals. The penalty does not expiate the crime, but its infliction tends to the protection of the community against its further commission. A great body of people probably live out their

lives without having seen a court of law; they are not parties to a suit, and are summoned neither as witnesses nor jurymen. Yet are not these people benefited by the courts? this class of people perhaps derives greater advantages from them than any other. The peace and security which they feel and enjoy, are maintained by forces which they do not see, but which are none the less efficient in securing order and dispensing justice.

A Will is a legal declaration of a person's wishes respecting the disposal of his property after death. Any person of sound mind and proper age can make a will; but in some states a married woman cannot, except it be relative to trust funds she holds. Competent persons, not benefited by its provisions, must witness the signature of the will; in some states three are required, in others only two. The maker of a will is a testator; the person appointed to carry out its provisions is an executor or administrator. After the death of the testator, his will is presented to the probate judge, who directs that notice be given, by public advertisement, of the probate of the will. If there is no opposition, the will is "proven." The executor, who must usually give bonds for the faithful performance of his trust, proportioned to the value of the estate, gives notice to all parties having claims against it to present them to him, and to all owing it, that payment must be made to him.

Usually two years is allowed for the proving and settlement of claims. The executor must report all his proceedings to the judge once a year, or oftener, as he may direct. A testator desiring to favor some of his children more than others, or wishing to disinherit any, must be certain to mention these persons by name, else it might be held that they were forgotten or overlooked, and its provisions con-

tested upon that ground. But courts usually uphold the wishes of the deceased where they can be clearly ascertained.

If a person dies without making a will, he is legally described as intestate; and a person called an administrator is appointed by the court to settle the estate, dividing the property, after the payment of the debts, among the next of kin, according to law.

Informal wills made upon a battle-field, or by one in momentary expectation of death by drowning at sea, or otherwise, have been allowed and held valid by the courts.

Guardians for minor children are appointed by the court where none are named by the testator. Gifts and bequests are usually upheld, even though they may seem to work hardship to the lawful heirs.

Contracts.—A contract is an agreement voluntarily made between two or more persons of sound mind, to do, or not to do, a certain thing. It may be made orally, or committed to writing; but the essential part is, that it is founded upon the mutual understanding and agreement of the parties.

Some persons are naturally incapacitated to make a contract, such as idiots, lunatics, drunkards, and any other persons who by reason of age or infirmity are incapable of rightly managing their affairs. An idiot is mentally deficient, and incapable of acting for himself. A lunatic might have a lucid interval when, if not under guardianship, he could make a contract. But if disputed, the burden of proof would be upon the party sustaining its validity. So a drunkard may have sober intervals when he may make a contract, the necessary part being the capacity to give a voluntary and deliberate consent.

All persons under twenty-one years of age, and married women in respect to some contracts, are legally incapacitated to make a valid contract. If induced to make one, it may be repudiated unless confirmed by the parent or guardian, or confirmed by the person after coming of age, or after the disability is removed. There is an apparent exception to this in respect to debts that might be incurred for food and clothing, and necessary education.

In general, the legality of a contract will be presumed, and to avoid it the contrary must be shown. But a contract such as would violate the general principles of morality and justice, or would be a violation of law, or repugnant to public policy, would be illegal.

A contract must be for a *good* or a *valuable* consideration. A good consideration is one that would warrant a gift of property, such as natural affection and blood relationship. A valuable consideration is one that the parties themselves esteem sufficient to induce them to undertake to perform the service, or assume the relations agreed upon.

It is a general rule in the construction of contracts, that they will be so construed as best to give effect to the intention of the parties to them. Also that the law of the place where made, is binding in the construction. An agreement to do any certain thing must be reduced to writing and signed by the parties, if the time of the performance is more than a year from the time of the agreement. The only exception to this is a mutual agreement to marry.

Fraud will invalidate any contract; it is required that there shall be good faith in every person negotiating one, and that he will not be a party to, or permit, any deception or misrepresentation as an inducement to enter into one.

No essential fact can lawfully be concealed, or defect covered up, without rendering it as voidable as if wilful misrepresentation had been made. So a contract made under a threat or coercion, is voidable; it must be the free and voluntary act of the person, or it cannot be maintained.

A *Contract* for services to be performed may be either oral or written, except that if the term be for more than one year it must be in writing, in order to be binding. In all cases where there are any special agreements or conditions, it is desirable that they should be written out clearly, in order to prevent any future misunderstanding. When no time of payment for labor is specified in the agreement, it is held to be due only when the service is completely performed. And if one leaves without good cause before the labor is completed, he cannot recover for what he has done already. Even if he leaves for a day without cause, the employer is not bound to take him back, nor to pay him for services previously rendered. But if he were sick, or he should die, or if compelled to leave through the misconduct of the employer, then he is entitled to full pay for all the services rendered. If a minor makes a contract for services and receives pay for them, if they were reasonably worth more, he may recover the difference after coming of age.

In a contract to build a house, if the specifications are varied from at the request of the employer, the builder may recover a reasonable amount for cost of extra materials or labor. But if the builder does not follow specifications through design or negligence of his own, he cannot collect what the house, as built, may be reasonably worth. Yet the employer may make himself liable by occasionally inspecting the work and materials and expressing ap-

proval. If a contractor puts in better materials than he agreed, he cannot collect the difference in cost. A contract for services implies ordinary skill, and good faith in their performance. Generally no one can enforce a claim for services rendered to another party without his request. If a contract becomes impossible of performance, it is a rule that payment must be made in a reasonable sum and equitably for what has been done.

Partnership. — When two or more persons associate themselves together to prosecute some lawful business, and to share its profits and losses, they are called partners. This partnership may be limited to a single transaction, or it may involve an extended business lasting through a term of years. The contract by which the parties bind themselves may be either oral or written, but it is wise to have the whole agreement in writing, defining the nature of the business, the services each partner is to perform, the capital and share of the profit or loss, when it shall terminate, if limited in time, and what shall be done in the case of the death of either partner.

An essential feature of a partnership, is that profits and losses are shared in common. The same legal qualifications are required in the parties to a partnership as in those to any other kind of contract. A married woman may enter into partnership and become liable to the extent of her separate property. In a general partnership, as related to the public, all are jointly and individually liable for its debts: but as among themselves, they are liable according to the terms of their contract. A dormant partner, who has a secret interest in the business, if discovered, is liable for its debts, as is also a nominal partner, who has no interest, but who lends his name for the

purpose of giving it credit. A partner is not entitled to pay for his services beyond his share of the profits, unless the agreement provides for it. Neither can a partner dispose of his interest to a third person and constitute him a partner in the business.

When the time of continuance of a partnership is not named in the contract, it is said to be *at will*. And where it is at will, it may be dissolved at any time by either partner, but he will be liable to all the others for damages. Generally a partnership at will is dissolved by the violation of the agreement by a partner, or his bankruptcy, sale of interest, felony, or death. All special agreements among partners are good as among themselves, but not as against third parties, unless specially brought to their notice.

Each partner is an agent for all the others to transact any and all of its business, but he has no right to use the firm name in his individual business, nor to use funds of the firm for his own benefit. Each partner is bound to exercise the utmost good faith toward the others, giving all information respecting the common interest, and zealously co-operating to promote all the interests of the partnership. If a partnership is dissolved by a partner's death, the legal title vests in the survivors, and they must account to the representatives of the deceased for his share; as long as they do this with fidelity, his heirs cannot interfere in the adjustment of the partnership accounts and arrangement of the business. If there is not property enough to pay its debts, his private property may be taken for that purpose; but sufficient must first be applied to extinguish his individual indebtedness.

A *limited partnership* differs from a general partnership

in that public notice must be given, proven, and recorded in the same manner as a conveyance of real estate, and also published in the newspapers of the locality of the business. The certificate, signed by each one, must set forth the name of the firm, the nature of the business it is to transact, who are general and who are special partners, with their residences, the amount of capital each one contributes, and the period for which it is formed. These partners are not liable beyond the amounts they agree to contribute. A special partner may die or dispose of his interest without working the dissolution of the firm. Such partnership cannot be dissolved before the time specified in the certificate without giving equally public notice, and taking legal steps similar to those necessary at its formation.

A joint stock company is virtually a limited partnership, as described in the last paragraph, having officers such as president, secretary, and treasurer, for its own convenience in the transaction of business. Suits at law may be instituted by and against them in the name of one of their officers.

Mortgages. — A mortgage is a conveyance of property upon condition, as security for the payment of a debt. Generally the mortgagor is considered the real owner of the property, subject only to the lien upon it for the payment of the debt, or performance of other condition. If the mortgagor defaults, the mortgagee may compel him to perform the condition named in the deed, or he may obtain judgment, and have the premises sold upon execution to satisfy the condition. A mortgage must be as formal as a deed making an absolute conveyance of property. It must be subscribed, witnessed, and recorded in the same way, in

order to insure its validity. An unrecorded mortgage is valueless as against an innocent purchaser of the same property. Also the wife of the mortgagor must join in the conveyance, or she will retain her right of dower in the premises after his death.

In the mortgage of personal property it is usual also for the mortgagor to retain its possession until he makes default of payment, or other condition which entitles the mortgagee to enforce his rights. Authorities state that the mortgagee has a right to the custody of the property mortgaged, but in practise the mortgagor usually retains it. If the property so mortgaged be levied on for other debts of the mortgagor, it can be sold only subject to the rights of the mortgagee. As in the case of real estate, the mortgage must be recorded, or it will not hold the sale of the property as against the title of an innocent purchaser. If a mortgagor fails to meet the conditions of the mortgage, and at the same time refuses to yield the possession to the mortgagee, to which his deed entitles him, then the mortgagee may recover the property the same as he would any other, the rightful possession of which was withheld from him.

Liens. — A lien is a right that one may have to hold the property of another as security for the payment of a debt, or the discharge of some obligation. One who furnishes materials for a building, or for the manufacture of an article, has a lien upon it for the payment of their value, and the mechanic employed in erecting a building, or making some article, has a lien upon it for the payment of the value of his services. The keeper of a hotel or a boarding-house has a lien upon the baggage of a guest for his charges for entertainment. A carrier may retain posses-

sion of goods to secure payment of his charges, and where one furnishes material to a mechanic for the manufacture of an article, the mechanic has a lien upon it for the payment of his labor ; and so too where one has left property to be repaired. An agent or tradesman who has advanced money for freight or labor upon goods of another in his hands, has a lien upon them as security for payment of these advances.

Leases for a period not exceeding one year will be held valid, even if not in writing, although it is prudent to have the conditions of the lease reduced to writing and properly witnessed. A lease may contain any provisions in regard to amount of rent and time of payment, and conditions concerning use of the premises, and about repairs and alterations, to which the parties agree. If the landlord agrees to make repairs and does not do it, the tenant may, after due notice, make them himself and collect the cost from him. At common law if a leased building be burned up, or become so injured as to be untenable, the rent will not cease, unless the contract provides differently. The tenant is entitled to a reasonable use of the premises without any interference from the landlord. If the lessor should do anything to preclude their beneficial use by the tenant, he may vacate the premises and refuse further payment of rent. On the other hand, should the tenant create a nuisance upon the premises, or injure them beyond the ordinary wear, or refuse to pay the rent, the lessor may eject him and recover possession.

Generally a lease will contain some provision as to whether the tenant may sublet a part of the premises, or dispose of his whole lease at his pleasure during the term

of the tenancy. Also, if it be in the city, it will provide who shall pay the water rates. The rights of a tenant are not affected by a sale of the property during his term of occupancy, the purchaser being bound by the contract of the seller. If the lease is of land, it will provide who shall have any crops that may be standing at its expiration; in absence of such provision they will belong to the lessor, unless the time should be uncertain, when they would belong to the lessee.

It is the duty of the tenant to vacate the premises at once on the expiration of his lease, and no notice to quit is necessary; if he does not go, the landlord may resort to legal process to eject him. Where he is a tenant at will, a notice to quit is necessary; usually a month's notice is sufficient, but in some cases as long a time may be required as the intervals agreed upon for the payment of rent.

Sales. — Sale of real estate must be by deed under seal; it is prudent to have subscribing witnesses. This deed or conveyance must describe accurately the premises sold or conveyed, and name the consideration for the transfer.

Deeds generally are of two kinds, Quitclaim and Warranty; the former is often given where a person has only a partial interest in an estate or piece of property, and this deed conveys to the grantee whatever right, title, and interest is possessed by the grantor. A deed with warranty covenants with the buyer that the seller has a good title to the property, and an indisputable right to sell, convey, and guarantee peaceable possession of the same to the buyer and his heirs forever. This deed must be properly recorded in the office of the county clerk, or whatever officer attends to the registry of such instruments.

Sales of personal property are generally by oral contract

only, and the title passes from the seller to the buyer upon agreement to terms of sale, and if the property is left in the custody of the seller, it is at the risk of the buyer. Yet if anything remains to be done by the seller to complete the transaction, it is still at his risk for loss or damage. The delivery is an act in which both parties concur and by which the property comes into the actual power of the buyer. Unless the terms of sale provide for future payment, the seller may retain possession until the price is received.

This involves the right of stoppage of goods while yet on the way from the seller to the buyer, if not wholly paid for, and the seller learns that the buyer is insolvent before they actually come into his possession. If no place of delivery of goods is named, it is generally understood that they are delivered at the place where they then are. If one kind of goods is ordered and another is sent, they are at the risk of the seller, and the party ordering is not bound unless he accepts them.

Most of the states have enacted a law designed to prevent fraudulent sales, whereby a creditor of the seller might be defrauded. This law provides that a contract for a sale shall be void where the property in question is fifty dollars or more, unless a memorandum of the contract be made in writing and signed by the parties to it; or unless the buyer receives a part of the goods; or unless he pays down at the time a part of the purchase money.

The law presumes that the property is owned by the party in possession, and that a *bona fide* sale involves a transfer; this presumption may be overcome by sufficient evidence that the statute has been complied with.

In connection with a sale of personal property, a war-

warranty as to quality, quantity, and condition, is sometimes made in writing. But where no express warranty is given, one is implied. It is implied that the seller has a good title which he transfers to the buyer: if it is an article of food, that it is sound and wholesome; if it is something to be manufactured, that it shall be of good quality; and if it be an article of common purchase by the buyer, there is a warranty implied that nothing of an inferior quality will be delivered.

Receipts. — A receipt is a writing given in acknowledgment of the delivery of money or goods, and usually stating for what purpose. “A receipt in full” does not debar the giver of it showing subsequently that it was not in full, and collecting the balance.

A release differs from a receipt in that it is in the nature of a contract, and must be for a consideration which should be expressed in it. Releases of claims against real estate are often practically in the nature of conveyances. One partner may give a valid release of a debt due a firm, and where there are several executors or administrators, a release of a claim by one binds all.

Notes. — A promissory note is a writing signed by the maker, by which he agrees to pay another person, called the payee, a certain sum of money. The words “for value received” are usually inserted, and although they may not be necessary, yet in all cases they are advisable. In most of the states such notes are negotiable.

A note need not be in any particular form; if it states in intelligible language the promise to pay a certain sum of money to some person, or to bearer, it will be sufficient.

Notes may be indorsed in blank or to some person. The holder of a note that has been dishonored may hold all

the parties to it liable, or he may hold some and not others; if he gives notice to all the parties, each one will be bound. If the residence of an indorser or the maker are unknown, diligent inquiry should be made, and notice sent as near as can be ascertained to his last known or probable place of residence, and that will be sufficient to hold either party. But if subsequently his real place of residence or business become known, another notice must be sent there in order to hold him.

If a note is lost, public notice of the fact should be given, so that innocent parties may not negotiate it, and the maker should also be informed by the holder; but if he cannot produce it at maturity, and the maker refuses payment, his only remedy is a resort to a court of equity.

Interest. — This is money paid for the use of money, or the forbearance to collect a debt when due. The rates of lawful interest in the several states vary considerably. Six per centum is the most common sum, and that is also the lawful rate for the nation. The highest legal rate known in any state is twelve per centum. In some states by special agreement any rate is lawful; while in others the exaction of more than the lawful rate, which is called usury, may be visited by severe penalties.

Agency. — An agent is a person authorized to act for another, called his principal, in dealings with third parties: he may be employed to perform a single act, in which case he would be a special agent; but when he is employed by his principal generally in the conduct of his business, he becomes a general agent. The authority of the agent to act is more usually implied by the conduct of the principal than expressed by an instrument in writing; a teller in a bank, a clerk in a store, a superintendent at a factory,

and others, are assumed from their positions to act with the full knowledge and consent of their principals.

Generally a principal is liable for all the acts of his agent that are done within the scope of that agency, but for nothing outside or beyond that, unless he may hereafter approve and adopt such acts. It is the duty of the agent diligently to follow his instructions, whatever his own judgment may be. Honesty, fidelity, and ordinary skill, are expected of him. Where he has no instructions, he must conform to the usages of the trade. For actions within his instructions the agent is not liable to third parties, but his principal is responsible. The power conferred upon him by the principal must be used for his benefit and not for the agent's.

Insurance.—A contract by which one party undertakes to indemnify another in the case of certain losses is called insurance. This contract is usually in writing, and is called a policy. The principal kinds of insurance are fire, life, and marine. The policy should specify the subject of insurance and the dangers against which it is issued; all the conditions must be named in it. If there is not perfect accord in meaning of the written with the printed part, the written will be held to express the intent of the parties.

If the insured makes an oral agreement with the company issuing his policy that he will continue it from year to year, it is valid, but the premium could not be increased without notice. A policy is binding upon the insurer as soon as the verbal agreement is made and premium received, even if the policy has not been issued, and the subject of it has been lost in the interval. The insured must own, or have an interest in the property insured, but

one who has no specific interest in it cannot insure it, even though he may have a claim against the owner in respect to it. But mortgagees have an insurable interest in property upon which they have advanced money.

The business of insurance is generally conducted by corporations specially chartered for this purpose under the laws of the several states; agents for foreign companies may also take risks under such safeguards as the laws of the state deem sufficient to protect the rights of its citizens. The applicant for insurance is to act in good faith with the insurer, to make no false representations, and to conceal no fact that may be material to its subject. Either an untrue statement, or the hiding of essential facts, will vitiate the policy. The conditions of a policy must be observed; if it is stipulated that no intoxicating liquors, for example, should be kept on the premises, the violation of this condition might impair the right of the insured to recover in case of loss. A policy generally requires the insured to give notice of loss to the insurer at once, and to furnish evidence of the same, if required, within a reasonable time.

Marine insurance covers losses of vessels with their cargoes, whether by fire, shipwreck, or a public enemy. The insured undertakes and warrants that his vessel is seaworthy and well equipped with all necessary materials and the requisite crew, and that he is to engage in no illegal traffic. Marine insurance companies will generally issue blank policies to merchants, which will cover all property they may be advised of being shipped by the insured from time to time. As goods are shipped, the company is advised, and a memorandum of the same added to the policy, which completes the contract. The blank policy is the

same as the usual one, except in leaving blank the name of the vessel, the ports to and from which she sails, and the premium.

The purpose of life insurance is to provide a fund to be paid at the death of the insured to his family or legal representatives. The most usual form of a policy is for the term of the natural life of the insured, but it may be for a single year or for a term of years. One may assign a policy upon his own life, and it will be perfectly good in the hands of the assignee, even though he could not of himself have procured a policy upon the person's life, through lack of an insurable interest. A policy obtained upon the life of another, in which the insurer has no pecuniary interest, is void. A creditor has an insurable interest in the life of a debtor, and the wife in her husband's life.

To the validity of a policy upon a life, it is essential that the insured shall have made no false representations, and concealed nothing in regard to bodily health, personal habits, or past history. Usually life policies contain some restrictions upon travel in general, or at certain seasons, and also in regard to change of latitude of residence. As fraud vitiates all contracts, so especially is this the case in all kinds of insurance. Good faith and upright dealing are indispensable.

Railroads. — As railroads have been adjudged to be common carriers, they enjoy all their privileges, and are subject to their duties. A carrier must exercise due care and ordinary diligence in the transportation of persons and property, and he is responsible for loss incurred by his neglect or failure to use them. He is held to the same degree of faithfulness that a careful man would naturally have in the transaction of his own business, and in the

case of injury or loss he will have to rebut the presumption that he is responsible. He must receive all goods and passengers offered, and carry them to their destination as soon as practicable. He cannot discriminate among persons, taking some and refusing others, nor between shippers, or among goods, except that he may decline such as are dangerous and are offered at an unseasonable time. And he is responsible for the delivery of goods in good order at their destination in due time, unless prevented "by the act of God or of the public enemy."

It is one of the risks that the carrier assumes, that all his servants will be faithful and honest, and he cannot escape responsibility through or for their dereliction; if they are dishonest, he must make good losses incurred in that way; if they are neglectful, he may suffer in damages; and if they "strike," it is no excuse for the non-fulfilment of his contracts, and his general obligations as a common carrier. All these things he must consider when he assumes the duties of a carrier. Also, if he contracts to deliver goods at a certain place on or before a day named, an unavoidable accident will not relieve him of responsibility. It is generally held that a railroad in selling a ticket to a passenger, contracts with him, and warrants that the road is in good travelling order; that all its vehicles and locomotives are safe and well equipped; and all its servants diligent, faithful, and competent. If there is any failure in these respects, the road will be responsible for loss or injury to persons or property.

All express companies, transportation companies, baggage expressmen, and forwarders generally, come under the rules applicable to railroads and common carriers generally. So, too, telegraph companies in many respects are

held to the laws governing the relations of common carriers to the public; they must exercise ordinary care and diligence, and are answerable for neglect or omission of duty on the part of their agents. They are also under the additional obligation of secrecy; the contents of a message must not be divulged to any but its rightful owner. The violation of this rule has been held to be a misdemeanor punishable by fine and imprisonment.

It is an essential of a telegraphic message, that the identical words of the sender shall be handed promptly to the receiver; a company is generally liable for any loss or damage accruing through the mistake or neglect of its agents.

Canals. — A canal is an artificial waterway specially constructed for the passage of vessels. Since the introduction of steam and its application as a motive power for land carriage, the use and construction of canals have diminished. Before that time, and for some years later, they were used for transportation of both freight and passengers, but now they are used for freight only; they generally carry such freight as either there is but little haste in the delivery of, or such as is of so bulky a nature as to add too greatly to its cost of transportation by railroad. The state of New York has always fostered her canals, and to them she owes much of her commercial greatness and prosperity. Recently, by a popular vote in that state, all tolls upon the canals were abolished, and the cost of their maintenance became a public charge.

CIVIL POLITY.



DERIVE the definition of Civil Polity by first defining a *Civil State*.

1. Civil State.—A civil state is a community of persons living within well-defined limits of territory, and acting together under a permanent organization controlled by self-imposed rules for the accomplishment of some common end.

2. Civil Government.—A *governing power* is that which has authority to make rules of human conduct and to apply them in directing and controlling it. *Governing* consists in making and applying the rules. *Government*, then, must be the rules thus made, and their application. And *Civil Government* is the rules made for controlling civil conduct, and their application to the citizens of a state.

3. Principles of Civil Government.—A *right* is a *permission* to be, to do, or to possess something. Such a permission granted to man by the Creator becomes a *natural right*. If the permission be granted by one man to another, it becomes an *acquired right*. The objects of natural rights are life, liberty, reputation, property, truth, etc. The end to be secured by the possession of the objects of natural rights is our well-being. Man acting alone is unable to secure for himself the objects of his rights. He needs protection.

Man living alone, would not be furnished with the right occasions for his proper development. He needs the right occasions and means of development. The existence of civil society is necessary for the right development of the social faculties and capacities of man, and it may be shown that civil government is necessary for the existence of civil society.

In the existence of natural rights and in the need of the means of protection and development are found the principles upon which civil government is founded.

4. Forms of Civil Government. — That department of the governing power which enacts the laws is called the *Legislature*.

The department that interprets the laws made is called the *Judiciary*.

The department that executes the laws is the *Executive*.

If the legislative, judicial, and executive powers are all exercised by one person, a form of government will exist called a *Monarchy*, or *Autocracy*.

If they are exercised by a few chosen persons, the government will be an *Aristocracy*.

If they are exercised by the people themselves, it will be called a *Democracy*.

The principles of civil government have been illustrated, and the forms of civil government stated, and we are now ready to make an intelligent definition of Civil Polity.

Civil Polity is a knowledge of the principles and forms of civil government.

Ends to be Secured. — A government has accomplished the ends for which it was established, if it protects the citizens in the enjoyment of the objects of their natural

rights and furnishes them the free opportunity of developing themselves and their resources.

That form of government will be the best, which is best adapted to accomplish these two ends.

GOVERNMENT OF THE UNITED STATES.

As the different functions of the government of the United States are exercised theoretically by the people, the form is that of a Democracy. As practically the functions are performed by representatives chosen by the people, the form is that of a Representative Democracy. As the representatives are limited in their action by a constitution, the government of the United States is a Constitutional Representative Democracy.

A study of the principles of our government and of its forms may be carried on together. A knowledge of one will throw light upon the other.

CHAPTER I.

DIVISION OF POWERS.

THE student may have learned, in the study of the state governments, that the powers of a government are necessarily divided into three groups, or departments. The duties to be performed in each department differ from those in the others. Expérience, in governments that approach a representative character, has shown that the three departments must be kept distinct. Even in countries ruled by absolute monarchs, there must be some delegation of powers and authority to inferior officers, and in such delegation there is a division of powers approaching that named above. To one set of officers is delegated foreign affairs; to another set is delegated affairs of finance; to another, matters of war; to another, judicial duties; and so of other matters. In limited monarchies, a legislative branch is established, by the action of which the ruler receives the advice of a class of his subjects in the enactment of laws, and the judicial branch relieves him of the burden of deciding law-suits of small moment. At the same time, the ruler reserves to himself the reversal of the action of all his subjects, whether of legislation or of judgment. The nearer a government approach the democratic form and character, the clearer is the line drawn between the three departments. The distinction is more marked in the United States than in any other government. Here, the administration of the government

is divided into the Legislative, Executive, and Judicial Departments. Each department has a different set of officers, and in but few instances do the duties or responsibilities of any set of officers include the duties or responsibilities of any other set. The President and Vice-President each have duties connected with legislation. The House of Representatives, in cases of impeachment, has duties in the prosecution of offenders: and the Senate, in the same cases, exercises judicial functions. The details of these matters will be treated more fully hereafter.

The Legislative Department.—This is the department that makes the laws. The word “legislative” means “law-bringing,” or “law-bearing.” The idea is that, as this department represents the people more completely than either of the other departments, and as the people are the source of all authority,—the will of the people being law in a republic, as the will of the emperor is law in the empire,—the enactment of laws is simply the formal act of expressing the will of the people, the putting of that will into words. In this sense, the legislature, or Congress, brings the law from the people and puts it into the form of statutes. “Law” and “statute” are but other names for those rules and regulations necessary for holding the people together in society and government, and for securing to them their rights. In a more general sense, the legislative department determines what rules are best for the people, what regulations are wisest, and how and by what officers these rules and regulations shall be enforced. The constitution provides the officers by whom the general affairs of the nation shall be administered, but it has wisely left to Congress the duty of pro-

viding such officers as are needed in the smaller concerns of government. In addition to the duty to make the laws, the Congress of the nation has been given authority to keep watch over all the officers of the government, of whatever department, and it may remove any of them from office for official misconduct. In the states, this department appears to be the most important one, but it is not so in the national government.

The Executive Department.—This department administers the general laws made by Congress. It also may enforce laws if necessary by the use of the army and navy. This is a more important department of the government than it is in a state. In most of the states, each officer of the executive department is separately elected by the people, his duties are separately defined by statute, he acts upon his own responsibility, and is responsible to no one but the laws and the people. In the general government, the whole executive department acts together under one officer who appoints, directs, controls, or dismisses each of them and all of them in the general work of their offices. All act under one plan. The President appoints, directly or indirectly, all the officers of this department, even to the lowest, and all are responsible to him for their actions. As the interests of the nation are greater than those of a state, the laws of the nation require greater elasticity than do those of a state, and the President and his officers have more discretion allowed to them than is allowed to such an officer in a state.

The Judicial Department.—This department of the government interprets the laws and the constitution, and even decides upon the constitutionality of laws, and the legality of the action of other officers, and applies the law

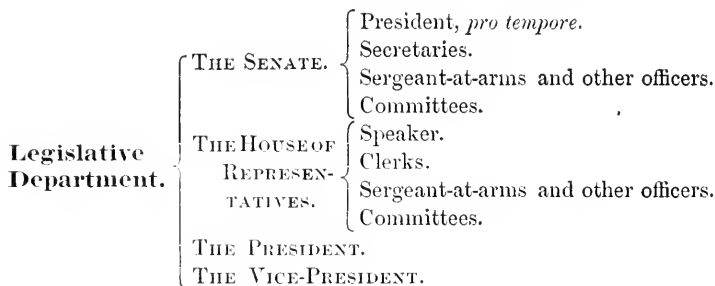
to individual actions. As different persons disagree as to the meaning of the words of the constitution, of the laws, and of contracts, and as these disagreements lead to trouble unless some one has the right to settle them, to this department is given the authority to settle all such disagreements. The decision of the courts is as much the law as an act of Congress can be, and must be obeyed as such.

CHAPTER II.

THE LEGISLATIVE DEPARTMENT.

THE powers and duties of this department of the government have been generally stated in the preceding chapter. It remains for us now to consider its organization, the methods by which it exerts its power, the authority given to it, and the limitations placed upon that authority, by the constitution. The name given to this department is the Congress.

· DIAGRAM OF THE LEGISLATIVE DEPARTMENT.



As will be seen by the above diagram, the legislative branch of the government is composed of four parts, each of which has some duty in the enactment of laws.

1. THE SENATE.
2. THE HOUSE OF REPRESENTATIVES.
3. THE PRESIDENT.
4. THE VICE-PRESIDENT.

Members. — The Senate is composed of two members from each state. They are elected by the legislature to serve for a term of six years. They are so classified that the term of one-third of the members expires every two years. This secures a membership of two-thirds of the body who have served two years or more, and who are thus familiar with the methods of legislation. The House of Representatives is composed of members from the several states, elected by the people, in districts, one from each district, and each district containing about the same number of people. The members of the House serve two years.

Qualifications of Members. — To be a member of the Senate, a person must be thirty years of age, have been a citizen of the United States nine years, and be an inhabitant of the state for which he shall be chosen. A member of the House of Representatives must be twenty-five years old, have been a citizen of the United States seven years, and be an inhabitant of the state in which he shall be chosen.

No person can be a member of either house of Congress while holding any other office under the United States. No person can be a member of either house of Congress, who had previously held any office under the United States, or had held any general state office, and, as such officer, had taken an oath to support the constitution of the United States, and had there-after engaged in insurrection or rebellion against the United States, or had given aid or comfort to the enemies of the United States. This disability may be removed by a vote of two-thirds of both houses of Congress.

How Elected. — **THE SENATE.** The state legislature, at its last session before the expiration of the term of any

senator, elects his successor. Upon the second Tuesday after the organization of the legislature, each house separately votes for a senator. If a majority of each house is cast for the same person, he is declared duly elected. If no person is so elected upon the first vote, the two houses must meet together every day there-after and take one vote for senator: at such meeting the members of the two houses constitute one body, and a majority of the members of that body is necessary to elect.

THE HOUSE. After each census, a number is fixed upon, by Congress, for the membership of the House. The whole number of people, as shown by the census, divided by that fixed number, will give the number of people required for one member. Each state is then assigned its number of members of the House, as shown by that division. In ascertaining the number of people, for this purpose, Indians not taxed are not counted, nor are the people living in the territories or in the District of Columbia, as they are not represented in Congress. After the number of members of the House is assigned to the states, the legislature of each state divides the state into as many districts as the number of members to which it is entitled. These districts must contain the same number of people, as nearly as possible. In each even-numbered year (1886, 1888, 1890, etc.) the members are elected by the people at the general election for state officers.

Privileges of Members. — Members of each house of Congress cannot be arrested while in attendance upon the sessions of their houses, nor while going to or returning from such sessions, for any offense except for treason, other felony, or for a breach of the peace. No member can be made liable, in any civil action, or in any criminal

proceeding, for anything that he may say in Congress. These provisions prevent any interference with a member of Congress in the discharge of his duty, enabling him to do his duty without fear. If a member could be arrested, while on duty, for a small and unimportant matter, the public might be deprived of his services, and often members who were obnoxious to any one might be so arrested upon false charges in order to prevent the exercise of their duty. Treason, other felony, and a breach of the peace are considered so serious that not even members of Congress are exempt from their penalties. If a member of Congress could be sued, in slander or libel, for words used by him in debate in Congress, or in the proper discharge of his duty, he might thereby be restrained from such fearlessness and independence as he ought to possess. It is better that he should be allowed to state what is not true, sometimes, than that he should ever be punished in any way for speaking the truth.

Sessions. — The regular annual session of Congress begins on the first Monday of December. This is the time fixed by the constitution, but Congress has the power to change the time, at its pleasure. The President is authorized to call special sessions of Congress, or of either house, whenever, in his judgment, the public interests demand it. The first regular session of each Congress continues so long as its members desire to remain in session — usually it adjourns in June or July. The second session closes, by constitutional limitation, March 4, at noon. Members hold office from March 4, to March 4, at noon, two years.

Organization. — At the time fixed for the opening of the first session of a Congress, the Vice-President calls the

members of the Senate to attention, and the Senate then elects its secretaries, sergeant-at-arms, door-keepers, and such other subordinate officers as it needs. If there is no Vice-President, the Senate elects a President, *pro tempore*, from its own members. Usually a caucus of the political party having a majority of the members is held, at which members are assigned to committees. This assignment is adopted by the Senate, and the organization is complete. The membership of the committees is usually made up of a fair proportion of the two parties represented in the Senate. In the House, the clerk of the last House calls the members to attention. Thereupon, the speaker, clerks, sergeant-at-arms, door-keepers, and other inferior officers are elected. The speaker always makes the assignment of the members to the committees. The committees are arranged, as they are in the Senate, a majority of the members being of the party that has a majority of the membership of the House.

Quorum. — A majority of the members elected to each house forms a quorum; that is, no business can be done by either house unless a majority of its members are present. In the absence of a quorum, the members present may compel the attendance of absent members, and may adjourn from day to day.

Duties of Officers. — The Vice-President and speaker are the presiding officers of their respective houses. Each sits at a desk in front of the members, and facing them. He is addressed by the members as they rise to speak, and no member can proceed until he has been recognized by the presiding officer. In case two members rise and address him at about the same instant, he decides which one is entitled to proceed. He also prevents disorder or con-

fusion in his house, keeps the members to the business before them, directs the subordinate officers in the discharge of their duties, appoints all committees whose manner of appointment is not otherwise provided for, and signs all bills that pass his house. In his temporary absence, each house has the right to elect a member to serve during such absence. Each house elects, also, an officer, whose duty it is to record all the proceedings of that house, and to keep the papers and other documents belonging to it, and these officers have such assistants as are needed. In the Senate, this officer is called a secretary, and, in the House, he is called a clerk. Each house, also, has a sergeant-at-arms, who acts under the direction of the presiding officer in the preservation of order, not only among the members, but also among visitors. A door-keeper has charge of each door leading into the house, in order that only those who have a right may enter. Janitors attend to the rooms to keep them in order, and pages, usually boys, act as messengers for the members and officers during the sessions. There are, also, official reporters of each house, who take down, in shorthand, the remarks of the speaker, and of other members. These reports are printed in full in the official paper, called the Congressional Record.

Rights of Each House.—Each house determines the election and qualification of its own members. All contests between persons claiming to have been elected to Congress are decided by the house to which they claim election. If any question arises concerning the qualification of a member of a house, it is decided by the house of which he is a member, or to which he claims to have been elected. Each house, also, may punish any member for

disorderly conduct, and it may expel a member, by a two-thirds vote of its members. It is not restricted to any cause for expulsion. It may, therefore, expel for any cause that would render the member an illegal, undesirable, or unworthy member.

Journal. — Each house keeps a record, by its secretary or clerk, of its proceedings, and the same is published daily in the Congressional Record. The Senate has a secret, or executive, session, in which it acts upon treaties, nomination of officers, and such other business as it desires to do in secret. The journal of these secret sessions is not published. The House is authorized by the constitution to hold secret sessions, but it does not do so.

CHAPTER III.

THE LEGISLATIVE DEPARTMENT. — Continued.

How Members Vote. — Upon ordinary occasions, the members may vote by word of mouth, by show of hands, or by rising, or by passing between tellers and being counted. Whenever one-fifth of those present demand a vote by “yeas and nays,” the name of each member is called, and he votes “yea” or “nay,” and the vote is recorded. By the other methods of voting, no record is kept showing how any member voted.

Rules. — We have seen that each house has authority to make rules. These rules direct the whole business of legislation. They state how the members shall conduct themselves, when bills and resolutions may be presented, what course they shall take in order to come to a vote, in what order of precedence motions shall be voted upon, as well as all the details of method and form in making laws. These rules are usually adopted at the beginning of each Congress, and may be changed at the pleasure of the house. The two houses, also, have rules concerning their relations to each other, and their joint action in the passage of bills.

Committees. — These are appliances for assisting in the work of legislation. They are provided for in the rules of each house. The committees are named from the subject of legislation over which they have jurisdiction. The most important committees are those called Foreign

Affairs, Finance, Appropriations, Judiciary, Commerce, Manufactures, Agriculture, Indian Affairs, Military Affairs, Naval Affairs, Public Lands, Pensions, and Claims. Each house also has a committee specially authorized to examine and report upon the expenditures of the money appropriated to each executive department of the government. Very few of the committees can take jurisdiction of a bill, of a paper, or of any subject, until it has been referred to it by its house.

Bills. — A bill is the name given to the draft of a law when it is introduced, and in its passage through the machinery of legislation: after it has been signed by the President, it is a law, or statute. Each house may originate bills upon any subject except one. The constitution provides that “bills for raising revenue shall originate in the House of Representatives,” and that the Senate may propose amendments. The language of the constitution would restrict this exception to bills that propose to raise money for the support of the government; but the uniform and almost unquestioned practice has been to apply the prohibition to bills appropriating money as well. The term is practically applied to all bills for raising or disbursing the public money. The House of Representatives is larger than the Senate, its members are elected directly by the people, and the method of their election renders them more directly representative of the people — of the popular will. The framers of the constitution followed the example of England, in which the House of Commons, the immediate representatives of the people, hold the purse-strings.

Methods of Legislation. — These methods do not differ much from those employed by state legislatures. When

a bill is introduced, it is read by the clerk, either in full or by its title, as may be ordered by the house. If no one objects, it is ordered to be read a second time upon a subsequent day. If any one does object, a vote is taken on the motion to read it a second time. If the motion is lost, the bill is rejected; if the motion carries, the bill goes on file to be read again. It is seldom that any one does object to a second reading of a bill.

Upon a second reading, the bill may be rejected, or may be ordered printed and referred to its appropriate committee. After the bill is printed, a copy is delivered to each member of the house, and the committee to which it has been referred takes it under consideration. If the committee approves the bill as it reads, its chairman reports it back to the house, with the recommendation of the committee that it pass. If the committee approves the substance of the bill but does not approve its form, a member changes the bill to a form that will suit the views of the committee, and the chairman of the committee reports it favorably to the house.

If the committee does not approve a bill, either in substance or form, its chairman reports it to the house, with the recommendation of the committee that it do not pass. When it reports a bill, the committee may state the reasons for its approval or disapproval, or it may not do so. If the bill is an important one, or if it has attracted public attention to any great extent, or if it has much influence upon politics, the report of the committee is usually accompanied by a statement of reasons, often at great length. Each member of the committee is allowed to state his views separately, and sometimes this is done.

After the committee has reported, the house may adopt or reject the report. If the report is favorable to a bill, and the report is adopted, the bill is then ordered to be sent to the Committee of the Whole. If the report is unfavorable, a rejection of the report sends the bill to the Committee of the Whole, or may send it back to the same committee for farther action, or may send it to another committee. The rejection of a favorable report usually kills a bill, although it may still be recommitted to the same, or to another, committee. In case of such recommitment, the house usually instructs the committee what action to take. The sending of a bill to another committee, after an unfavorable report from one committee, indicates that the house favors the bill; in which case it is sent to a committee a majority of whose members are friends of the bill.

Committee of the Whole.— This committee consists of the whole house, but the formalities and rules of the house are laid aside, so that a bill or report can be discussed or amended more easily and fully than can be done in the house. It is simply a committee of the house, and has no organization but a chairman, who is designated by the presiding officer of the house. The clerk and other officers of the house continue in the discharge of their duties however during the session of this committee. Whatever action is taken by this committee is merely advisory, and must be reported to the house for approval. Usually a bill is perfected in this committee and is passed by the house just as it is reported. Sometimes the house reverses the action of the committee. Some members will not vote in the house, where their vote is recorded, as they voted in the committee, where no record is kept.

Action of the House.—After the Committee of the Whole has perfected a bill, it reports to the house the result of its action, just as any other committee reports. The house may then vote to adopt or to reject the report. Usually, a “yea and nay” vote is taken in the house upon each amendment proposed by the committee. Other amendments may be proposed and voted upon at this time. In the Committee of the Whole, and in the house after a report from that committee, are the stages for amending a bill. When the house perfects a bill, at this stage, it orders it engrossed for a third reading, after which it cannot be amended without sending it to a committee again. To engross a bill is to write it out just as it has been left by the house, putting the amendments into their proper places. This copy of the bill is carefully compared with the original bill and amendments, by a proper committee.

Third Reading.—After a bill has been engrossed, it is so reported to the house, and is then called up for a third reading and passage. It is read in full by the clerk, and a vote taken at once upon its passage by yea and nay. It requires the presence of a quorum, and the affirmative vote of a majority of those voting, to pass a bill. After the passage of a bill by one house, the clerk certifies upon it the fact, and the date of its passage, and delivers it to the other house while it is in open session. In that house the bill takes the same course already described, is subject to amendment or rejection, and is treated in all respects as though it originated in that house.

Amended by the Other House.—When a bill is amended by the other house, the bill and amendments must be sent back to the house from which the bill came.

If that house agrees to the amendments, it so votes, and the bill is passed. If that house does not agree to the amendments proposed by the other house, it so votes, and reports its action to the other house. The other house may then drop its proposed amendments and pass the bill without them, or it may insist upon its amendments as proposed. When such is the case, each house usually appoints a committee of conference. If those committees can agree, they report, and their houses adopt or reject their reports. Usually, the conference committees compromise the difference between the two houses, and their reports are more often adopted than rejected. When passed by both houses, the bill is enrolled, that is, written out again in full on parchment paper, signed by the presiding officer and clerk of each house, and sent, by a committee of the house in which it originated, to the President.

Final Stage.—The President is one of the executive officers, but the constitution makes him a legislative officer so far that his approval of a bill is necessary before it can become a law. When the President approves a bill, he writes upon it the word “approved,” and the date of the approval, and signs his name beneath. If the President does not approve a bill, he must return it to the house in which it originated, accompanied by a message stating his reasons for declining to approve. If he does not so return it within ten days (Sundays excepted) after it is presented to him for approval, the bill thereby becomes a law without further action. If Congress adjourns before the expiration of the ten days, the bill does not become a law unless the President signs it. When the message of the President, stating his objections to a bill, is received by the house to which it is directed, the message is read

and entered in full upon the record. That house then proceeds, so soon as it is ready, to consider the message. If two-thirds of that house vote to pass the bill notwithstanding the objections of the President, it is sent to the other house, accompanied by a copy of the President's message. If both houses vote, by two-thirds, to pass the bill notwithstanding the objections of the President, it becomes a law. This is called passing a bill over the President's veto. The message objecting to a bill is called a veto. Every order, resolution, or vote which requires to be passed by both houses must be signed by the President or passed over his veto, in the same manner as a bill, in order to be effective.

When Laws take Effect. — The constitutions of many of the states provide a time when laws shall take effect after their passage. The constitution of the United States is silent upon that point. Therefore the laws of Congress take effect at once upon their approval by the President, or upon passage over the President's veto, unless the laws themselves state when they shall take effect.

Publication. — The proceedings of Congress are so important that the newspapers usually give more or less full statements of them, together with a report of the bills under consideration. After adjournment, however, the laws passed at that session are published in pamphlet form and distributed to the courts and higher officers of the government, and sold to others.

Adjournment. — Either house may adjourn from day to day at pleasure, but it is forbidden to adjourn for more than three days at one time without the consent of the other house. The assent of both houses is also necessary to an adjournment to any place other than the one in

which they shall then be sitting. In case the two houses cannot agree upon the time of adjournment, the President may adjourn them to such time as he shall deem best.

Impeachment. — The House of Representatives has the sole power to impeach an officer for official misconduct. The impeachment is tried by the Senate, sitting as a court. When the President is upon trial before the Senate, the Chief Justice of the Supreme Court presides: in other trials, the regular presiding officer acts. The proceedings in impeachment will be treated in the chapter upon the Judicial System.

CHAPTER IV.

THE LEGISLATIVE DEPARTMENT. — Continued.

POWERS OF CONGRESS.

As the government of the United States is one of limited powers, possessing no authority that is not given to it by the constitution, it follows that each branch of that government, also, must be limited in its powers. The first section of the constitution says that all legislative powers *herein granted* shall be vested in a Congress. We must then look to the constitution for a list of the powers granted and of the limitations imposed. We shall find both, and they will be taken up in their order. Section eight of Article I. contains a list of the powers granted.

I. To Lay and Collect Taxes, Duties, Imposts, and Excises. — To “lay” a tax is to make the necessary order for its collection, accompanied by such a description of the property or person to be taxed as shall enable the collector to act intelligently. There would appear, from the words of the constitution, to be four things which Congress has power to lay and collect; but, in reality, there is but one: all are taxes, but differing somewhat in their kind, and in their method of imposition and collection.

(a) A TAX, as usually understood, is a forced contribution, made periodically, by a person for the support of the government: this tax may be levied upon property or

upon the person. If laid upon lands or other real estate, it is called a realty tax; if laid upon personal property, it is called a personalty tax; if laid upon the person, as taxes for the improvement of roads and streets are laid in some states, it is called a poll tax, or capitation tax. This must be the kind of tax mentioned in sections two and nine of Article I.

(*b*) A DUTY is a tax levied upon goods once only. There are two kinds of duties, differing in the method of levy and the character of the property upon which it is levied. An *Impost Duty* is collected from goods manufactured in another country, and brought to this country for sale or use. This duty is levied when the goods are entered at the custom house, and must be paid before the goods can be taken from the custody of the government. Sometimes this duty is levied upon goods with reference to their value, — so many cents upon each dollar of valuation: it is then called an *ad valorem* duty. Sometimes the duty is laid upon each article, or measure of an article, without regard to its value — so much upon each pound, or gallon, or yard: it is then called a specific duty. Sometimes it is levied in both ways. The constitution uses the words “tax or duty,” in the clause relating to immigrants and imported slaves. If levied upon the persons as human beings, it would be a tax; if levied upon the persons as property, it would be a duty, — specific impost duty. An *Excise Duty* is a tax levied once only upon goods at the place of their manufacture, and collected before the goods can be removed. During and after the late War it was levied upon many kinds of goods, but now (1888), it is levied chiefly upon liquors and tobacco, — so much upon each gallon of distilled

liquors, so much upon each barrel of malt liquors, so much a pound upon tobacco, and so much for each hundred cigars manufactured. This kind of duty usually includes all the methods of taxation except the annual levy upon persons or property, or impost duties. The taxes paid in stamps upon notes, deeds, drafts, etc., and the taxes upon professional occupations, or callings, and upon incomes, are property taxes, though generally grouped under the head of excise duties. The taxes upon professional occupations and upon incomes were levied and paid annually, like ordinary property taxes. All the other duties, impost and excise, are paid once only.

(c) UNIFORMITY. Under our form of government, there is little, if any, danger that the taxes or duties will be any higher in one part of the nation than in any other; but the men of the Revolution had just separated themselves from a government under which such partiality had been shown, and they took care to provide against the possibility of such injustice under the new government.

(d) OBJECTS. The section which we are considering states three purposes to which the money raised from taxes and duties may be applied:—

1. *To pay the debts.* (a) Under the confederacy, there was no common treasury, out of which the expenses of the war of the Revolution could be paid. The Articles of Confederation provided that each colony should pay its share of those expenses in proportion to the value of land possessed by it. But all the colonies did not pay their shares. The close of the war found the colonies heavily in debt for the expenses of the war. As all were to share in the benefits of the war, it was just that the new government, representing all the colonies, should assume that

debt. These then were the debts which the constitution authorized to be paid from the money collected from taxes and duties.

(b) It often happens, in the life of a nation, that it has need of money at once, for more than it has on hand, and when it cannot await the slow process of levy and collection of taxes. Then, it must borrow money, must create a debt. It cannot borrow money unless it has authority to pay. To pay debts so created is within the authority of this section.

2. *Common Defense.* A provision for the common defense, for the defense of the nation and of its people, is a usual and necessary object of taxes. A nation must be prepared to strike back at assailants if it would exist, and such preparation requires money.

3. *The General Welfare.* (a) Under this head must be included the payment of the ordinary expenses of the government. (b) In addition to this, there are harbors to be lighted and repaired, channels to be buoyed, coasts to be measured and sounded, ports to be protected from winds and waves, river channels to be kept open, canals to be dug, roads to be built, and many other works of internal improvement, which benefit the people of the whole nation in greater or less degree. To such objects the national money may be applied.

II. To Borrow Money.—As we have just seen, an occasion often arises when a government needs more money than it has on hand, and needs it before it can be collected. The outbreak of a foreign war, or of a domestic rebellion or insurrection, might call for the expenditure of millions of dollars within a few months. To meet such an emergency, this clause gives to the government authority to borrow money.

III. To Regulate Commerce. — (1) **FOREIGN.** There is no nation that permits outside persons to trade with its citizens, within its territory, without restriction. There are several reasons for this. (*a*) The government, through its organized forces of police, army, and navy, affords some protection to all the persons and property within its limits. These forces cost money, and those who receive benefits from them should pay for them. If foreign persons can find a profit in trade in our ports, they ought to share that profit with the people of the government that grants the privilege to trade. (*b*) If the government had no supervision of the trade between its citizens and foreign persons, it might find its citizens selling arms and other contraband articles of war to people who could not make them, and who would use them against us. The nation could not remain neutral in case of war between two of its neighbors, if its citizens could sell war-materials to either nation at pleasure. It would be inevitably drawn into the war. The nation is bound, in honor, to prevent its citizens furnishing aid to the enemies of any nation with whom it is at peace. For this purpose, it must know what is sold to go out of the country, and what is bought to come in. (*c*) It has a duty, too, to see that goods brought into the country are not injurious to the people in any way. This includes all degrees of injury, from the greatest danger to the slightest inconvenience. If the introduction of some goods would place the lives or health of people in danger, the government has a duty to prohibit such introduction. If only property is endangered, the duty is no less actual and plain. If such introduction of goods should tend to throw classes of people out of employment, or to cause a decrease of wages, or to encourage vice, or to increase pauperism, or

to break down national character, the duty of the government to prohibit or to discourage such importation by any means in its power seems clear. (*d*) In order to preserve a national character and national pride, the citizens of a nation must have an advantage over foreigners at home. What a citizen may claim as a right, a foreigner can request as a privilege only. That the rules and regulations by which the commerce of the nation is controlled may be uniform, they should all be made by the same authority, and be applicable to all places and to all persons alike.

CHAPTER V.

*THE LEGISLATIVE DEPARTMENT. — Continued.*POWERS OF CONGRESS. — *Continued.*

III. To Regulate Commerce (*continued*).—(2) INTER-STATE. In 1887 Congress passed an Interstate Commerce Law. (See its provisions, pages 171–173.) The welding of the several colonies and states into a compact and united nation has been so thorough that citizens know but little of state lines, except in regard to political affairs. The constitution has doubly guarantied that the citizens of one state shall possess and enjoy all the privileges and immunities of citizens of the several states. Therefore a citizen of one state can trade in another state with the same freedom from restriction and restraint as can the citizens of that state. It is clear, if we may judge from the language of the constitution, that the framers of that instrument had somewhat obscure ideas about the relations of the states to each other and to the central government. This clause would indicate that they regarded the states as aliens to each other, very much as France and Spain are alien to each other. Only in matters of local government are they so alien. Duties are not levied upon goods passing from one state to another, nor is there any inspection of them, or interference with their free transit in any way by any government. In practice, in commercial matters, the United States is one country, where-in

state lines are neither regarded nor observed. The regulation of charges upon the transportation of passengers and freight from one state into or through another is about the only subject upon which Congress has been asked to act under the authority of this clause. While there might seem to be sufficient power in the individual states to make such regulations as would protect their own citizens, yet such regulations would not be so uniform and impartial as the industrial interests of the nation require. Hence, Congress has made such regulations and enacted such laws as shall apply alike to all the states.

(3) INDIANS. To some extent the Indians have always been regarded by the government as organized communities, with whom treaties could be made. This was especially so at the time of the formation of the constitution. Then, there were large nations of Indians who occupied the great tracts of country west of the settlements. There were reasons, drawn from the character of the Indians, which made it desirable that the commercial intercourse between them and the settlers should be very greatly restricted. There was a special necessity for making it difficult for the Indians to obtain arms and ammunition and intoxicating liquors. In addition, the same reasons that made it proper for the nation to have the right to regulate trade with foreign nations, made it proper for the nation to have control of the trade with the Indians. Since the great West has been settled, there are no longer any Indian nations; and the whole population, living in 22 states and territories, is estimated at about 170,000. The Indians are now under the protection of the national government, and all trade with them is, as it ought to be, under the regulations of that government.

IV. Naturalization. — The United States is essentially a nation of immigrants. From its first settlement, there has been a tide of immigration from Europe — the newcomers came to stay. As the privileges and burdens of citizenship ought not to be lightly assumed, and as there ought to be some means whereby the government may know who are and who are not citizens, it is proper that those who intend to become citizens should do something to indicate that intent, and some record should be made of it. In monarchies, it is usual, when a person succeeds to the throne, for all the officers and men of the army and navy, and of the civil service, to take an oath of allegiance to the new sovereign. And it is very proper for a person who changes his allegiance to take an oath of fealty to the new government under which he is to live. To provide for these things, Congress has made rules and regulations governing the admission of foreigners to American citizenship.

V. Bankruptcy. — A bankrupt law is one that permits unfortunate business men, who cannot pay their debts, to deliver all their property to trustees for the benefit of their creditors as payment in full of all their debts. Those who have failed in business, not always by their own fault, and who have large debts hanging over them, have no incentive to enter business again, as their earnings could be seized at any time by their creditors. The government deems it better for the public good that all debts be wiped out, under such circumstances, and the unfortunate debtor be allowed to start again. Each state still has the right to make such laws upon this subject as will affect its own citizens, only. A state law cannot release a debtor from the claims of a creditor who resides in another state; only a law of Congress can do that. At present (1888),

there is no *national* bankrupt law. Most of the states have one of that character.

VI. Money, Weights, and Measures. — All civilized countries assume the exclusive right to coin the money which the people use, and to regulate its value. In no other way can the people be sure that the coin in use contains the proper amount of precious metal, or that it has the value that it pretends to have. For like reason, the governments take the right to determine the standards of weights and measures. Unless the governments did this, people could not know that they were buying thirty-six inches for a yard, or sixteen ounces for a pound. Money, weights, and measures, used by all the people, ought to be the same in all places in the same nation, and one authority should provide rules for making them so.

VII. Counterfeiting. — All governments have the right to punish those who resist their authority, or who interfere with their functions. In order to perform its duty in furnishing to its people uniform coin, and in emitting securities, it must see that the coin is not debased nor the coin or securities counterfeited. The right to punish counterfeiting the coin and securities of a nation would seem to be a necessary part of the right to issue them.

VIII. Post-offices and Post-roads. — These are new things in the history of the world. Anciently, among all people, there were arrangements for carrying the dispatches of the government, — for conveying official reports and letters between the officers of the government; but there was not, prior to 1635, any arrangement for carrying the letters of the people. At that date, the first post-office for the people was established, in England, and it was not until 1649 that the government of Great Britain assumed charge of it. The colonies adopted the plan of

government post-offices and post-roads in 1710, and under the administration of Benjamin Franklin, who was the first Postmaster-General, it was rapidly extended and improved. The system became permanent, as a branch of government business, upon the adoption of the constitution. To Congress is given control of the establishment of post-offices and post-roads, as the system ought to be uniform over the whole United States.

IX. Copyright ; Patents. — These two rest upon the same principle. The right to the exclusive ownership of one's own inventions and of the product of one's own thoughts, is one of modern acceptance, although it is not universally accepted. Even some Americans deny the right. All discoveries in the arts and sciences are necessarily costly in the expenditure of time and money. All work, too, that comes under the head of literature, is costly in the time, labor, and expenditures in preparation for it as well as in its production. It is therefore right that those who enjoy benefits from inventions and from literary labors shall pay for them. Some autocratic governments reward authors, inventors, and discoverers by gifts of money or lands or by pensions. The more modern, and the more equitable, idea is to guarantee to such persons the exclusive right to print and sell their own literary works, and to use their own inventions or discoveries, by themselves, or purchasers, for a term of years, during which time, it is supposed, they may repay themselves for their time and expense. This is the plan of the constitution, which gives to Congress authority to carry it out.

X. Courts. — The constitution provides for but one court, and leaves to Congress the duty to ascertain what other courts are wanted and to provide them, and to make rules and regulations for their government. [Art. III., 1

and 2.] The court of the constitution is the Supreme Court, and the courts to be established by Congress must be inferior to it.

XI. Piracies. — (*a*) Very few criminal offenses come within the jurisdiction of the government of the United States: most are left to the local regulation of the states. The boundaries of the states terminate at the seashore, but those of the national government extend to a distance into the sea, three leagues, or nine miles. Upon that portion of the sea not within the boundaries of any state, the citizens of the United States are within the protection of the nation. The government of the United States takes upon itself to punish piracy and other felonies committed by any one within the three-league limit, or by any of its citizens outside that limit. The power that provides punishment for a crime should be the one to define that crime. (*b*) The states have no relations to foreign governments except through the United States government, and cannot make treaties with other nations. The law of nations, so-called, is simply a condensed statement of the treaties between nations. There are, however, many rules regarding the intercourse of citizens of different nations and the relation of nations to each other and to each other's subjects or citizens which are so generally embraced in the treaty stipulations of all the civilized nations that they are usually regarded as of universal acceptance. As between the nations accepting those rules, they are regarded as laws. There have been many books written to systematize and explain these laws. No one but themselves can make laws for independent nations. Therefore the national government must help to make all the rules that apply to the relations of the United States to foreign nations, and must help to enforce them by the punishment of those who violate them.

CHAPTER VI.

*THE LEGISLATIVE DEPARTMENT.—Continued.***POWERS OF CONGRESS.**—*Continued.*

XII. War.—Every independent government must have the right to determine for itself when to engage in war and when to make peace. Every such nation must also have the means to repel assaults and to punish its enemies, otherwise it would not long remain independent. To do these, armies and navies are needed. These are the police forces of a nation. Necessarily, the same government that has the right to declare war and to make peace, must have the right to raise and to use the army and navy, and must also have authority to make all the rules and regulations needed for their government, for disposing of captures upon land and water, and for arming, training, and officering both arms of the service; that is, to have full control of all the means of defense and of offense. In deference to the several states who desired to retain some semblance of sovereignty, the constitution allows the several states to appoint the officers of the militia, and to train the militia under the rules to be prescribed by the Congress. The rules are to be prescribed by Congress, so that they may be uniform throughout the nation. The army is the body of national police force in active service, while the militia is simply a like force partially trained, which can be called out when needed.

XIII. District of Columbia.—At the time of the adoption of the constitution, the nation had no located capital. Arrangements had been made, however, to receive the gift of a tract of land, ten miles square, from Virginia and Maryland, situate on the Potomac, on which to locate the capital. This provision is expressive of that arrangement, and states that Congress shall have, as it ought to have, exclusive control of that tract of land. The government cannot afford to be subject to the good-will of any one of the states: it must be independent of all of them. The public buildings of the United States, its forts, arsenals, dock-yards, and other places needed by the government for any purpose, must, likewise, be wholly under its control. Whenever the national government purchases any land within the boundaries of a state, for any purpose, it secures an act of the legislature of that state ceding to the national government exclusive control of the land so purchased, and of the buildings erected thereon.

XIV. General Powers.—This is a sweeping clause to remedy any oversight in the grant of specific powers. It is useful in protecting the officers and inferior departments of the government in the exercise of their duties. The courts would probably hold, in any event, that, when the constitution gives any authority to the national government, or to any department or officer of it, Congress would have the right to enact laws for making such authority effective. Some of the state courts have already decided that when power is given to an officer, all the proper means for the effective exercise of that power are necessarily given. Such view would probably have been taken by the United States courts, without this last provision. The existence of this general grant prevents a great deal of dispute.

XV. Slave Trade.—In section nine, Congress is authorized to levy a “tax or duty” of ten dollars a head upon all persons imported into the United States, and to prohibit such importation after 1808. The persons referred to in this section were slaves, and the importation was the slave trade. So far as the “tax or duty” on slaves is concerned, the right to levy such a tax is a dead letter, as Congress prohibited the slave trade in 1808, and there can be no persons imported upon which such a tax could be levied now.

XVI. Election of Members of Congress.—The duty to provide rules for the election of United States senators is given to Congress: but Congress cannot fix the place where the election shall be held. That place ought to be the capital of the state, and each state locates its own capital. Uniformity and certainty in the rules for all governmental action are very desirable; especially is this the case in the matter of elections. But there would not be uniformity in the election of United States senators if each state should be left to make rules for itself. Besides, as the United States senator is an officer of the United States, the government of the United States should have control of his election. Nearly the same reasons apply to the election of members of the House of Representatives, and Congress may make regulations for their election. [Art. I., sec. 4.]

XVII. Electors.—While the method of electing the Presidential electors is to be determined by the different states, each for itself, Congress has set the day for their election, and the day upon which they shall vote for President. It is important that all the electors shall cast their votes upon the same day, in order that each may vote his

individual preference, without regard to the manner in which others may vote. [Art. II., sec. 1.]

XVIII. Treason.—In the first part of section three, Article III., the constitution declares that treason shall consist of levying war against the nation or in adhering to its enemies, giving them aid and comfort. The constitution does not attempt to fix the punishment for their crime: this it leaves for Congress to do.

XIX. Public Records.—The constitution declares that the public acts, records, and judicial proceedings of each state shall have full credit in all the other states. Congress may provide the manner of proving such acts, records, and proceedings, and declare the effect of such proof. If a judicial decision has been rendered against a person in one state and he move to another, it can be enforced against him there without a new trial, under this provision. [Art. IV., sec. 1.]

XX. New States.—Congress has sole power to admit new states. At the close of the Revolution the country extended west to the Mississippi, north to the great lakes, but not to the Gulf of Mexico on the south. Large tracts in the west and north-west owned by the states were afterward ceded to the United States, and in 1787 Congress organized a territorial government for this north-western territory, and provided for its division into five states. This division was afterwards made, and the territory became the states of Ohio, Indiana, Michigan, Wisconsin, and Illinois. The south-western territory, claimed by Georgia, North Carolina, and South Carolina, was unorganized, but was expected to follow the fortunes of the north-western territory. Maine was a detached portion of Massachusetts; Vermont was claimed by New

Hampshire and New York, while the residents asserted their independence. This comprised the expectations of new states, at the time the constitution was framed. Nothing was known, or contemplated, of the great tract of country, west of the Mississippi river, which was afterwards purchased from France and Mexico. [Art. IV., sec. 3.]

XXI. Public Lands. — Any right to own property must carry with it the right to make rules concerning its control. As stated above, much of the unsettled lands, that were not within the limits of any of the colonies, were claimed by more than one colony, and trouble was threatened in consequence. All this territory in the north-west was ceded to the United States just before the formation of the constitution was completed. This cession was made as a compromise. Some of the colonies refused to enter the union unless the cession was made, as they were jealous of the influence which the possession of large tracts of land, in the nature of provinces, would give. Besides, many thought that such possession of land, by states outside their limits, was inconsistent with the nature of the government about to be established. The section of the constitution concerning the right of Congress to dispose of, and to make rules and regulations concerning the territory of the United States, was inserted in order that there might be no question about it. The proviso that nothing in the constitution should be construed so as to prejudice the claims of the United States or of any state may not have been necessary, but was justifiable, perhaps, in view of the rivalry that then existed between the colonies. [Art. IV., sec. 3.]

XXII. Nobility. — We shall soon see that the United States cannot grant to any person any title of nobility, and that no officer of the United States can “accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.” The constitution permits Congress to give its consent to such acceptance of a gift from a foreign ruler or government. This permission is very seldom used by Congress, and never except for the purpose of enabling an officer to accept a present, or other honorary testimonial, in recognition of gallant and meritorious services, in the line of literary, scientific, or humane action. The American people do not believe very much in the value of titles of nobility, and they are not willing that a taste for such titles shall ever prevail in the United States. [Art. I., sec. 9.]

XXIII. State Tariff. — We shall see, also, that the states are forbidden to lay any duties upon imports or exports. The framers of the constitution evidently considered that there might be circumstances connected with the cost of keeping some ports in order and safety that would make it proper for a state to repay itself for such cost from the commerce of that port. Hence, Congress is allowed to give its consent to such action when proper. [Art. I., sec. 10.]

XXIV. State Troops. — While the states are forbidden, as we shall see, to levy tonnage duties, keep troops or ships of war, in time of peace, or enter into agreements with other states or nations, circumstances might arise to make this prohibition burdensome and unwise: therefore Congress is authorized to consent to such actions by the states, when, in its judgment, the public interests will permit. [Art. I., sec. 10.]

XXV. Amendments.—Congress has power, also, to initiate amendments to the constitution, of which the details will be given hereafter. [Art. V.]

XXVI. Sundries.—Each of the three amendments last adopted, the thirteenth, fourteenth, and fifteenth, contains a final clause giving to Congress authority to make all needed laws, rules, and regulations for the proper enforcement of the amendment. These amendments are of such a nature, being largely restrictions upon the powers of the states, that Congress could not enforce them without this authority. Without authority given to some department of the government for their enforcement, they would be obeyed or not, as each state might decide for itself. These amendments will be considered in their proper place.

CHAPTER VII.

THE LEGISLATIVE DEPARTMENT.—Continued.

RESTRICTIONS UPON CONGRESS.

IN the last chapter, we have considered the various powers which the constitution has given to Congress. In order that legislative authority might not be carried too far, the constitution has provided some restrictions upon those powers, and some restrictions upon such powers as would naturally belong to a legislative body. These restrictions are needed in order to keep the powers of Congress in harmony with a form of government under which there are other governments in some measure independent of it.

I. Appropriations for the Army.—Congress has authority to raise and to support armies, but it is prohibited from making appropriations for that purpose for a longer term than two years. The people are recognized as the real rulers, and this restriction allows the voters, in the election of members of Congress, to express their wishes upon the question of a war every two years. As a rule, the appropriations of money by Congress are made annually.

II. Bill of Attainder.—*Ex Post Facto* Law. The prohibition upon the power of Congress in reference to these two subjects has been discussed already. (See page 26.)

III. Tax.—The right to levy a direct tax is restricted so that it must be levied in proportion to the population

of each state. Under this provision Congress might pass laws levying a direct property and capitation tax, but it could not oblige the states to collect it, nor would it have the power to use state and local machinery for its collection; a large number of special officers distributed through the country would be required to collect it. Revenue more than sufficient for the needs of the government is now raised by duties upon imported goods, and from the manufacture and sale of a few domestic articles that are thought to be injurious. [Art. I., sec. 9.]

IV. Export Duty.—According to the meaning usually given to this prohibition, Congress cannot levy an export duty upon any article produced in any of the states. During the war of 1861–65 an export duty was levied and collected upon cotton. Although such levy has been considered to be illegal, the money so collected has never been repaid.

V. Preferences.—The trade of a country, whether import or export, usually concentrates at a few ports. The natural tendency of legislation would be to make rules and regulations for such ports different from those made for other ports. In the eye of the law, all places should have equal privileges, and all rules and regulations should be uniform. So the constitution declares that all regulations of commerce and of revenue shall be uniform, shall apply to all ports alike, and that no preference shall be given, for or against, the ports of any state. It was one of the accusations against the mother country, that the regulations of the commerce and revenue, made for the colonies, were often unjust and preferred favored ports. Vessels were often obliged to enter at such ports, and to clear from them, even if they did not desire nor need to go there. As early as 1676, a law of Parliament required

that goods, shipped from one port in one of the colonies to a port in another colony, should pay duty at the port where they entered. Such regulations were inconsistent with the theory that the colonies were a part of the British empire. Such regulations, continued under the new government, would be inconsistent with the theory that the United States constitute but one government. Were the separate states as independent and sovereign as is sometimes claimed for them, this prohibition would be out of harmony with the frame of government. [Art I., sec. 9.]

VI. Punishment of Treason. — We have seen that Congress may declare the punishment of treason, but the framers of the constitution have wisely defined treason and placed restrictions upon the extent and severity of its punishment. The harsh rules of the English law, by which the punishment of treason was visited upon the children, and even upon the distant descendants, of a person, were very obnoxious to the more enlightened minds. Hence, Congress is prohibited from making the punishment of treason extend beyond the life of the traitor.

VII. New States. — While Congress has been clothed with the sole power to admit new states, its power is not unlimited. The smaller states were afraid that the superior influence of the larger states might result in the consolidation of several small ones into one large one, or in the annexation of a small one to a larger neighbor. At the same time, the larger states were equally afraid that the influence of the smaller states, if combined, might result in a division of the larger ones. In order to allay these fears, the constitution forbids the formation of a new state by the division of any state, or by the consolidation of two or more states, or of portions of states,

without the consent of the legislatures of all the states interested, as well as of Congress. [Art. IV., sec. 1.]

VIII. Sundries.—In the Bill of Rights, the student will find other restrictions upon the powers of Congress, —concerning the establishment of a state religion, the abridgement of the freedom of speech, of the press, of popular assemblies, and the exercise of religious belief, and others. These are fully treated in the proper chapter.

GENERAL PROVISIONS CONCERNING CONGRESS.

I. Compensation.—When we serve individuals in any way, we expect to be paid for such service. There does not seem to be any reason why any one should be expected to serve the public without pay. In England, the members of Parliament are not paid. As a necessary result, none but the rich can afford to be elected to that body. As another result, the legislation of Parliament is necessarily by, and for the benefit of, the rich. The framers of the constitution were not ignorant of the results of the non-payment of members of the English Parliament, and they wisely arranged that the same results should not be seen in the new government. The members of Congress are paid a salary of five thousand dollars a year, and twenty cents a mile traveled, as expenses of going to and returning from the sessions. The amount is fixed by general law, and is paid out of the national treasury. [Art. I., sec. 6.]

II. Appointment of Members to Office.—There is another provision of some importance; this is, that no member of either house of Congress shall be elected or appointed to any civil office under the United States, dur-

ing the term for which he was elected to serve as member of Congress, if that civil office had been created, or its compensation had been increased, during his service as member of Congress. This provision was inserted, evidently, out of a zealous regard for the best interests of the public, and in rebuke of a practice in England of making an office for a favorite of the king. [Art. I., sec. 6, 2.]

III. Violators of Official Oaths.—In the fourteenth amendment, adopted since the war of 1861–65, it is provided that no one can be a member of either house of Congress, who, as member of Congress, or as an officer of the United States, or as a member of the legislature of any state, or as an executive or judicial officer of a state, had taken an oath to support the constitution of the United States and had afterwards engaged in insurrection or rebellion against the nation, or had given aid or comfort to the nation's enemies. This disability may be removed by a vote of two-thirds of each house of Congress.

IV. Oath of Office.—Before entering upon the duties of office, each member of Congress must take an oath, or affirmation, to support the constitution of the United States. [Art. VI., sec. 3.]

V. Vacancies.—If a vacancy occurs in the office of senator, during the session of the state legislature, a successor is elected at once. If the legislature is not in session, the governor may fill the vacancy by appointment. Such appointee shall serve only to the next session of the legislature. In case of a vacancy in office of member of the House of Representatives, the governor calls a special election for filling the vacancy.

CHAPTER VIII.

ADMINISTRATIVE DEPARTMENT.

THIS is usually called the Executive Department. As we shall see under the next title, there is another department charged with the special duty of enforcing, or executing, the laws. The chief duty of the administrative department is to manage the affairs of the government. Its head is the representative of the nation in its intercourse with foreign nations, and indirectly so in its intercourse with the states. The student has learned, probably, that the governor is simply one of a half-dozen executive officers of a state, each of whom is elected by the people, and has duties of his own which he must perform according to his own judgment. Each is independent of all the others, — even of the governor.

The governor, who is called the head of the executive department, is hardly more than a co-ordinate officer, but with duties of a more general and responsible character than those of the others, and who occupies, in popular apprehension, the highest position of honor. He has very little, if any, control of, or responsibility for, the conduct of his fellows. In the national government, this is different. The President is endowed with powers and authorities often more than those possessed by the ruler in a limited monarchy. He appoints all the numerous officers, with consent of the Senate, that are needed in the administrative and judicial departments. Those of the

administrative departments, and a large portion of those of the judicial department, are responsible to him alone, except for such misconduct as would subject them to impeachment or indictment for crimes. The people hold him responsible for the good conduct of all officers of his appointment. His power is so great that he might try to dictate to Congress, and sometimes with success. In a state, ordinarily, the legislative department is the most important; in the nation, the administrative department is the most important. The head of this department is

THE PRESIDENT.

How Elected. — In every year divisible by four each state elects, or appoints, as many electors as the whole number of senators and members of Congress to which it is entitled. No member of either house of Congress, and no one else holding an office of trust or profit under the United States, can be an elector. The constitution gives to each state the power to appoint these electors in any manner that it may choose, but the people of the states usually elect them. Two or three states, for a time, appointed the electors through the legislature, but none do so now. The electors are elected in all the states upon the same day, which is the first Tuesday after the first Monday of November. On the second Monday of January following, the electors of each state meet at the capital of the State, and cast their ballots for President and Vice-President. They then make out three lists of all the persons who received votes for President, and the number of votes which each received, and also lists of votes for Vice-President. These lists are signed by all the electors, and sealed. One list is deposited with the judge

of the District Court in whose territory the capital of the state is situated; another list is sent by special messenger to the President of the United States Senate, and one by mail. On the second Wednesday of February, following, the two houses of Congress meet in joint convention. The lists of votes, sent in from the several states, are then opened, and the votes for each candidate tabulated and counted. If any person has received a majority of all the votes cast for President, that person is declared, by the President of the Senate, to be duly elected President of the United States. The votes for Vice-President are counted in the same way, and the result announced. If no one person has a majority of all the votes cast for President, the three persons having the highest number of votes are selected, and from those three the House of Representatives elects a President. In such election, each state has a single vote, — a majority of the members from a state casting the vote of that state. If the members of the House, from any state, are evenly divided, or so divided that a majority of them do not vote for one man, the vote of that state is not counted. The votes of a majority of states are necessary to elect. This election must take place before the fourth day of March following the election of electors in November. The President takes his office on the fourth day of March. In like manner, if no person has a majority of the votes cast for Vice-President, the Senate immediately proceeds to the election of a Vice-President, making the selection from the two persons who had received the highest number of votes for that office. At this election, two-thirds of the whole number of senators must be present, and a majority of the whole number of senators is necessary to a choice.

The Electoral Count.—When Congress is in joint convention to witness the opening and declaration of the certificates of the electors of the several states, any member may object in writing to the receipt of the return from any state. If objections are thus made, the houses must separate and at once consider and act upon them. On reassembling, their decision is announced. If there is but one return from a state, that must be counted, unless it is decided by both the separate and joint action of the two houses that it was not regularly made.

If there is more than one return from a state, and if the highest judicial tribunal of that state has endorsed the regularity of one of them, that one is to be received and counted. If there is a conflict of state tribunals as to who are the true and lawful electors, the vote of the state will not be counted, unless both houses, acting first separately and then jointly, agree upon which is the regular return.

If there is more than one return, and the state tribunal has not decided which one is regular, the one having the certificate of the state executive under seal shall be received and counted, unless both houses separately and concurrently reject it.

Also if neither return has the endorsement of the state tribunal or of the executive, and no decision can be reached by both houses in the same manner as before as to which return is regular, the state loses its vote.

Qualifications.—A President, at the time of his election, must be thirty-five years of age, must be a native-born citizen, and must have been fourteen years resident within the United States. There has been no decision of the Courts, or of Congress, construing this last qualifica-

tion. A loose construction would allow a native-born citizen, who had resided continuously out of the United States since he became fourteen years of age, and had retained his citizenship here, to be elected President. A more strict construction would render a man ineligible unless he had resided within the United States during the fourteen years immediately preceding his election. The strict construction would seem to be the more reasonable one, as it is very important that the highest officer of the government, one wielding such extensive authority, should be in the fullest and deepest sympathy and accord with the thought, the sentiment, manners, and notions of the people. It is known that people naturally fall into sympathy with the habits of thought and of manner, as well as political and social sentiments, of those by whom they are surrounded, and with whom they associate, especially if the association is voluntary. But it is generally the boast of our citizens that they return from foreign residence or travel better Americans than ever. Opportunities to compare foreign institutions with ours increases their love of country.

Oath of Office.—The constitution provides that, before entering upon the duties of his office, the President shall take an oath, or affirmation, in these words:—

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States.”

Salary.—The President receives a salary of fifty thousand dollars a year, and he is prohibited receiving any other compensation from the United States, or from any of the states. His salary cannot be increased or diminished

*Pres. is personally inviolable.
May be impeached by Senate alone.*

during the term for which he has been elected. In addition to his salary, he resides in a building owned by the government, without payment of rent, and a large share of the expenses of his household is paid by the government.

Powers.—1. He is commander-in-chief of the army and navy of the United States, and also of the militia when it has been called into active service. So far, in the history of the nation, the President has never taken the field in active command of the army, but he has directed operations by sea and land, through the generals and admirals, from his office at Washington.

* 2. He nominates ambassadors to foreign courts, and ministers and consuls in the diplomatic service, the judges of the United States courts, heads of departments, and all the other officers of the United States, except some inferior officers whose appointment is vested by law in the heads of the departments or in the courts. When the Senate has confirmed the nominations, the appointments are made and objections issued. *Pres. may dismise them*

3. He makes treaties with foreign powers. These must be confirmed by the Senate before they become valid.

4. He may grant pardons, reprieves, and commutation of sentence for offenses against the United States, except in case of impeachment.

5. At the beginning of each session of Congress, regular or special, he sends a message, a copy to each house, giving to Congress a more or less detailed statement of his official acts, and of the condition of affairs in all the departments of the public service, and recommends such measures of legislation as he deems necessary or desirable. He also furnishes to Congress information concerning his official acts and those of his subordinates whenever called upon

*Up to 1867 the Pres. could dis miss such officials
but by the "Term of Office" act of 1867, it was rec*

by Congress. It is customary for him to do so upon the request of either house, or of one of its committees.

6. In case of emergency, he may call extra sessions of Congress or of either house; and when the two houses cannot agree, at any time, upon the time of adjournment, he may adjourn them to such time as he shall deem best.

7. As the Representative of the Republic, he receives ambassadors and other ministers from foreign nations.

The Presidential Succession. — The powers and duties of the President devolve upon the Vice-President in case of the removal, resignation, inability, or death of the President.

Should the Vice-President, after becoming President, be removed, resign, be unable to perform the duties of the office, or die, then the duties would devolve upon the Cabinet officers in the following order: first, upon the Secretary of State; and then, in like manner, upon the Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, and the Secretary of the Interior.

If there were no Secretary of State, or if the one appointed had not been confirmed by the Senate, then the office would pass to the Secretary of the Treasury if there were one and he were not under the same disability, and so on through the list. To succeed to the office, the Cabinet officer must have all the qualifications required by the constitution for President. If Congress is not in session when a Cabinet officer thus becomes acting President, and if it would not meet in regular session within twenty days, it is made his duty to issue a proclamation for an extraordinary session, giving twenty days' notice of the time of meeting.

CHAPTER IX.

ADMINISTRATIVE DEPARTMENT. — Continued.

THE DEPARTMENTS.

To assure a more orderly, systematic, and economic administration of the government, its officers are classified, each class having to deal with a separate group of subjects. These subjects are as follows: Foreign Affairs, Finances, Army, Navy, Miscellaneous Matters of Domestic Administration, Post-office, Legal Construction and Advice. In common terms, these are known as the departments of State, Treasury, War, Navy, Interior, Post-office, and Justice. Each department is presided over by a chief, who is called a Secretary of the department, in all but two, — the Post-office and Justice; these are called Postmaster-General and Attorney-General. Each has such assistants, subordinate officers, and clerks as are needed. The constitution makes no provision for this subdivision of the administrative department, except in the most general way, referring to it in Article II., section two, where it authorizes the President to require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of his office. These departments were created and their limits defined by Congress. Collectively, the heads of these departments are usually called the Cabinet of the President.

DEPARTMENT OF STATE.

This department was created July 27, 1789, at the beginning of the government. At first it was styled "The Department of Foreign Affairs," but it includes, as will be seen, some duties not related to foreign affairs, and the name was changed to its present one. The Secretary of State has charge of the correspondence with our own ambassadors, ministers, and consuls sent to foreign nations, and with the like officers of other nations sent to this country. The department is divided into eight bureaus, each with a distinct branch of the work.

1. THE DIPLOMATIC BUREAU has charge of all correspondence with our own diplomatic agents, or those of other nations in respect to the relations of this nation to the others. The United States keeps a Minister Plenipotentiary at the more important capitals, and a Minister Resident at the lesser ones. The difference between the two classes of ministers is mostly one of rank and salary, the Ministers Plenipotentiary being of the first or highest rank, and the Ministers Resident being of the second rank. The authority given to those of the first rank is usually, though not always, greater than that given to those of a lower rank. The nations named keep a minister of like grade at Washington. Oftentimes, upon special occasions, the government sends a special agent to another nation, to act either independently of the minister or in conjunction with him. Through these ministers and special agents, all the diplomatic correspondence is conducted, and all the international business done.

2. THE CONSULAR BUREAU has charge of the correspondence with the consuls and other commercial agents,

with instructions sent to them and reports received from them. These consuls and commercial agents of the government reside at such foreign cities as have commerce with the United States. They inspect the goods to be sent to the United States, compare them with the invoices, and certify to the character of the goods and to the correctness of the invoices. They look out, also, for attempts to smuggle goods to the United States, and attend to such other matters connected with the foreign commerce of the United States as may be required. They examine the clearance papers of vessels under our flag, and settle disputes between seamen and captains. In China, Japan, and Turkey, they are authorized to try American citizens for crimes committed by them in those countries.

3. THE BUREAU OF DISBURSEMENT attends to the accounts of all the officers and agents under the control of the department.

4. THE BUREAU OF APPOINTMENTS AND COMMISSIONS makes out messages of nomination, commissions, letters of appointment, and other records connected with the appointment of the officers of the government. The library of the department is in charge of this bureau.

5. THE BUREAU OF ROLLS AND ARCHIVES keeps the originals of all the acts, resolutions, and orders of Congress, has charge of the publication and distribution of the laws, the treaties, and the constitutional amendments. The laws, resolutions, and orders of Congress are published in book-form, at the close of each session, and are distributed to the principal officers of the government at home and abroad, in order that the officers may know the laws and their duties under them.

6. THE BUREAU OF AUTHENTICATION has the custody of the Great Seal of the government, and of the seal of the department. It prepares and certifies to all copies of laws, resolutions, or orders of Congress, and of all other official papers, and attaches the seal of the department to such certification, and the Great Seal to all proclamations of the President, and to such other papers as require it.

7. THE BUREAU OF PARDONS AND PASSPORTS has control of all papers and letters concerning pardons, reprieves, and commutations issued by the President. It also issues passports, and keeps records of the same. Persons traveling in foreign countries frequently, and in some countries always, need passports, which are letters from the government, describing the persons who carry them, certifying that they are citizens of the United States, and are entitled to all the rights which are accorded to citizens of the United States by treaty, or by the customs of nations.

8. TRANSLATORS. The department is obliged to keep skilled linguists in its employment in order to furnish to the head of the department translations of communications from non-English speaking nations.

Each of these bureaus is under the charge of a chief or clerk, with such subordinates as are needed.

Some of the greatest statesmen named in American history have occupied the office of Secretary of State, — an office requiring the greatest prudence and the most skilful diplomacy. The first occupant of the office was Thomas Jefferson. Since him have followed John Marshal, John Quincy Adams, Henry Clay, Daniel Webster, John C. Calhoun, Edward Everett, William H. Seward, James G. Blaine, and Thomas F. Bayard.

CHAPTER X.

ADMINISTRATIVE DEPARTMENT. — Continued.

DEPARTMENT OF THE TREASURY.

THIS department was created by the first Congress, July 27, 1789. It is charged with the execution of nearly all the laws relating to the raising of revenue and to the disbursement of the public money; the rules concerning commerce and navigation, the survey of the coasts, the establishment and care of the light-house system and the marine hospitals, the control and supervision of the national banks, the coinage of money, and the collection of duties and internal revenue, — all belong to this department.

This department, also, is subdivided into bureaus, each of which has a head officer, and such other assistants as are needed. It has three Comptrollers, a Commissioner of Customs, a Commissioner of Internal Revenue, six Auditors, a Treasurer, a Register, a Solicitor, a Supervising Architect, and a Special Commissioner of Revenue. In addition, the collectors are numerous. For internal revenue there is one collector for each district into which the country is divided. For impost revenue, the country is divided into one hundred three customs-districts, in each of which is a city or town through which foreign goods are brought into the United States. In each district is a collector, appraisers, examiners, special agents, and clerks,

if necessary, to examine the goods imported, to compare them with the invoices, estimate the qualities and values of goods, and to determine what duty should be paid upon them. Such of these cities where goods are entered as are situated upon the boundary line of the nation are called ports of entry. If they are situated inland, the goods may be transported directly to them, in bond, and they are called ports of delivery.

The division of work in the department, at Washington, is as follows: —

1. THE FIRST COMPTROLLER prescribes the method of keeping and reporting the accounts of the civil and diplomatic service and of the public lands. He revises and certifies these accounts, and none can be paid without his certification.

2. THE SECOND COMPTROLLER prescribes the method of keeping and reporting the accounts of the army and navy and of the Indian bureau. He revises and certifies these accounts, and none can be paid without his certification.

3. THE COMPTROLLER OF THE CURRENCY has immediate charge of the execution of the laws relating to the paper currency of the nation, to the national banks, and to their currency. He examines these banks periodically and as often as he deems it necessary, in person or by special agents. The plates from which the paper currency is printed are kept in his office. His annual report shows the condition of each national bank, its circulation, deposits, and amount and kind of investments.

4. THE SIX AUDITORS hear and determine all claims and accounts for disbursements under the appropriations of Congress for pay and expenditures of the several de-

partments, as follows: (a) *First Auditor*, of the civil service list and private acts. (b) *Second Auditor*, of the pay, clothing, and recruiting of the army, armories, arsenals, ordnance, and Indian service. (c) *Third Auditor*, of subsistence of the army, fortifications, military academy, military roads, quartermaster's department, pensions, and military claims. (d) *Fourth Auditor*, of the navy. (e) *Fifth Auditor*, of the diplomatic service, whether regular or special. (f) *Sixth Auditor*, of the post-office department. In addition to his regular duties as Auditor, he also assists the Postmaster-General in the collection of debts and penalties due from contractors of the department, directs and attends to suits, civil and criminal, needed in the department, and has charge of the lands and other property obtained in settlement of debts and penalties.

5. THE TREASURER has immediate charge of all the public money of the nation; the money is kept in several places. He has a vault in his office at Washington, and there is one each, at Philadelphia, New York, Boston, Cincinnati, and Chicago; at each place is a sub-treasurer under his control. The money is paid out at any sub-treasury upon the order of the Secretary of the Treasury and of the Postmaster-General.

6. THE REGISTER keeps the accounts of the public receipts and expenditures and the statistics of the navigation and commerce of the nation.

7. THE COAST-SURVEY is in charge of an officer who is called a Superintendent. This survey is for the purpose of ascertaining the exact shape and measurements of the coast, and the depth of the water at all places on the coast. The results of this survey are very important to the coasting trade.

8. THE COMMISSIONER OF CUSTOMS prescribes the method of keeping and of reporting the accounts of the custom-houses, and has charge of the expenditures for erecting and repairing the buildings used in the customs-service.

9. THE COMMISSIONER OF INTERNAL REVENUE has the general supervision of all matters connected with the enforcement of the tax laws.

10. THE SPECIAL COMMISSIONER OF THE REVENUE is required to investigate and study the principles and sources of revenue, the best method of levying and collecting taxes, the administration of the revenue laws, and the relations of foreign trade to domestic industry.

11. THE SOLICITOR OF THE TREASURY has general charge of all the litigation connected with the administration of the laws under which the department acts.

12. BUREAU OF STATISTICS. In the Treasury Department is a bureau called the bureau of statistics. Its duty is to collect, arrange, and classify such information as may be procured, showing the condition of agriculture, manufacturing industry, domestic commerce, the currency, and banks, markets, transportation, and wages, and the commerce and navigation of the United States with foreign nations. Its annual reports include condensation and classification of the business of government officers, banks, railroads, steamships, and whatever information it can obtain from private sources.

CHAPTER XI.

*ADMINISTRATIVE DEPARTMENT.—Continued.**DEPARTMENT OF THE TREASURY.—Continued.*

The Revenue System. — CUSTOMS-REVENUE. As we have learned already, revenue is derived from foreign-made goods which are brought into the United States. For the purpose of raising revenue from this source, Congress makes a list of all goods, or articles of merchandise, upon which it desires to levy a duty, and against each article, as named, it places a sum of money, or a rate per cent. To illustrate: If a certain sum of money is placed opposite an article, such article is to pay duty upon a certain quantity to the amount of that sum of money: as, boots, 35 cents a pair; cheese, 4 cents a pound; wheat, 20 cents a bushel; cast iron, \$6 a ton. If a per cent is placed opposite the article, such article is to pay duty upon its valuation at the rate per cent named: as, blank books, 25%; carpets, 40%. Some articles, as wool, pay a certain sum per pound, and a rate per cent upon valuation: as, clothing wool, valued at 32 cents a pound, or less, pays a duty of 10 cents a pound, and 11% upon its valuation; if the wool exceeds a value of 32 cents a pound, it must pay a duty of 12 cents a pound and 10% upon its valuation. This list is called a tariff. The value of the goods upon which the duty is based is the value at the place of exportation, and is usually shown by the invoice or by other evidence.

The custom-house officers employ experts to examine the goods and to report upon their value. When goods arrive at a port of entry, they are examined by the experts and by the examiners, weighed, counted, or valued. If they correspond with the invoice and are found to be correct, they are entered, and may be removed upon payment of the duty. If an importer is found to have undervalued his goods, or to have misrepresented their character or quality, or to have tried to get them in without the payment of duty, the goods are seized and confiscated to the government, which sells them for the payment of the duties due, and the surplus, if any, is placed in the public treasury. The persons thus defrauding, or attempting to defraud, the government, may also be otherwise punished.

This system of raising revenue is the most popular one, and, if fairly adjusted, is considered the best. By it sums of money, very large in the aggregate, are collected from the consumers of foreign-made goods in a way that is least noticed and felt by them. This system has been in use, in the United States, since July 4, 1789, when the first tariff law was enacted, upon the recommendation and approval of Hamilton and Washington. There have been frequent changes made in the rate of duty levied, but the system has been steadily adhered to by the people. This system of taxation has been used often for a purpose other than that of raising revenue. The first tariff law had a preamble that recited its purpose to be to raise money and to encourage and protect manufactures. All statesmen admit the great value of domestic manufactures to a nation. They promote enterprise, productive labor, and division of labor, advance wages, increase and keep at home the circulating medium of a country, give steadiness to industry

and commerce, and lessen the dependence of a people upon foreign nations, — in short, they add to the prosperity and well-being of a nation.

INTERNAL REVENUE. The other system of raising revenue is by internal taxation. Upon two or three occasions, the government has imposed a direct tax upon the people. This tax is apportioned to the states in proportion to population, and the states collect it by their revenue machinery and pay the amount to the national government. This tax was levied once during the late War of 1861–65. At the same time a stamp-tax was imposed. By law, every deed, note, check, draft, mortgage, will, or other legal instrument, had to pay a tax according to the amount of money represented by it. The stamps were purchased from the government and affixed to the instrument taxed. A tax was also placed upon the incomes of the people. An income of less than one thousand dollars was exempt. Incomes above that paid tax according to their amount, beginning with three per cent and increasing in rate as the amount of the income increased. An occupation tax of ten dollars a year was laid upon lawyers, brokers, bankers, insurance agents, and upon many other professions, and upon most classes of manufacturers. These taxes have now been abolished.

There remains now only the tax upon the manufacture and sale of liquors and tobacco. Whiskey pays a tax of ninety cents a gallon upon its manufacture, and other liquors, distilled, fermented, and malt, in proportion. A tax is levied upon each pound of tobacco manufactured, and upon each cigar. Manufacturers and dealers in liquors and tobacco also pay an occupation tax, collected annually. A tax is levied, also, upon the circulation of state banks

and private banks, but the tax is so high as to prevent all such circulation, which was the object of the tax. National banks still pay a tax, but it is little, if any, more than sufficient to repay the government for its supervision of them.

These taxes are collected by the internal revenue collector for the district in which the goods are made, or in which the dealer does business. As in the case of custom-house collections, the government employs special agents and experts to see that no frauds are committed by the manufacturer or dealer.

The collection of internal revenue taxes as imposed during the civil war requires such an inquiry into the private business of the citizen that the system has always been unpopular.

CHAPTER XII.

*ADMINISTRATIVE DEPARTMENT. — Continued.**DEPARTMENT OF THE TREASURY. — Continued.*

A Light-house Board consists of the Secretary of the Treasury and six others, appointed by the President. This board has charge of the administration of duties relating to the construction, the lumination, inspection, and superintendence of light-houses, light-vessels, beacons, buoys, and seamarks. All these are provided by the government so as to enable vessels to avoid rocks, sand-bars, and other dangerous places, either on the coast or at the entrance to harbors, or channels of navigable rivers. An experienced engineer has the immediate charge of the work of building them and of keeping them in repair. The coast of the United States is divided into districts, each of which is in charge of an officer of the United States navy, called an inspector. He has such subordinate officers and help as he may need in keeping the light-houses and light-ships properly lighted and cared for, and in keeping all the appliances of this service in good order.

The Mint. — The metal currency of the nation is coined at a mint. Of these, the principal one is at Philadelphia; branch mints are established at San Francisco, New Orleans, Carson City, and Denver City; with assay offices at Boisé City and New York City.

National Banks. — The present system of National Banks was established in 1862. These are private affairs,

so far as ownership is concerned, but they are chartered by the United States and are somewhat under the control of the government, through the Comptroller of the Currency and the Secretary of the Treasury. These banks are owned by corporations the same as state banks, and each shareholder is personally liable for the debts of the bank to the amount of the par value of his stock. When a national bank desires to issue notes or bills, it must deposit with the United States Treasurer bonds of the United States to an amount not less than one-third of its capital stock, and will receive from the Comptroller of the Currency notes or bills to the amount of ninety per cent of the bonds so deposited. If the bank should fail to pay its notes or bills when presented, the government will pay them and sell the bank's bonds to repay itself. The national banks are examined by a United States treasury agent, four or five times a year, in order to see if the business is done as directed by the laws and by the rules of the department. Whenever the banks violate the laws, the government may take possession and close them up.

The first Secretary of the Treasury was Alexander Hamilton, one of the ablest financiers of the nation. Many able men have succeeded him, including Albert Gallatin, Thomas Corwin, John A. Dix, Salmon P. Chase, William Pitt Fessenden, and John Sherman.

CHAPTER XIII.

ADMINISTRATIVE DEPARTMENT.—Continued.

DEPARTMENT OF WAR.

THIS department was created at the beginning of the government, in 1789. The Secretary of War ranks next to the President in military dignity and authority. He has the whole oversight of the army and of its affairs.

The same subdivision of work is found in this department as in the others.

1. THE ADJUTANT-GENERAL keeps the records of the army and issues commissions. All orders for the army, from the Secretary of War or from the commanding general, go through his office for registry and for his signature. The annual returns of the army come to his office for registry, compilation, and comparison.

2. THE QUARTERMASTER-GENERAL attends to the provision of quarters, storage, transportation, horses, horse-equipments, and horse-provisions. He also has charge of barracks and national cemeteries.

3. THE COMMISSARY-GENERAL provides subsistence for the troops and for military forts.

4. THE PAYMASTER-GENERAL attends to the payment of the army and of the Military Academy. The paymasters, who attend immediately to the payment of the army, act under his directions.

5. THE ORDNANCE BUREAU furnishes and distributes

the guns and ammunition to the troops and forts, and has charge of armories and arsenals.

6. THE CHIEF ENGINEER attends to the military defenses of the nation, to the improvement of rivers, and to the surveys relating thereto.

7. THE SURGEON-GENERAL controls all matters relating to the purchase and distribution of the medicine and to the surgery of the service, the management of the sick and wounded, and of the hospitals.

8. THE JUDGE ADVOCATE-GENERAL has charge of all prosecutions under the articles of war, and he examines and passes upon all sentences of courts-martial and of military commissions.

9. THE SIGNAL CORPS is a subdivision of the department that has charge of the signal service of the army while in active operations. There are various devices for transmitting information by signals, and new signals are being constantly devised. The collection and distribution of the reports of the weather is a duty assigned to this corps. Reports are received three times a day from hundreds of places in the United States, giving the degree of heat, of atmospheric pressure, the direction and force of the wind, the condition of the air, whether cloudy, fair, raining, snowing, hailing, etc., and often other facts, at each place. From these facts, an officer tries to predict the weather at each place for the succeeding day, and that prediction is sent by telegraph to that place. This branch of the service is yet in its infancy, and the predictions are not always verified.

10. THE ARMY. The officers of the army are: Lieutenant-General, Major-General, Brigadier-General, Colonel, Lieutenant-Colonel, Major, Captain, First Lieutenant, and

Second Lieutenant. A captain has command of a company of soldiers, whose maximum number is one hundred. The two lieutenants are his subordinates and take his place, in his inability to command, in the order of their rank. The colonel commands a regiment, and the lieutenant-colonel and majors are his subordinates, and take his place, in his inability to command, in the order of their rank. Infantry regiments have ten companies and one major. Cavalry regiments have twelve companies and three majors, each major having immediate charge of four companies, called a Battalion. The commanding officer of an infantry regiment has two assistants, — an adjutant, ranking as a first lieutenant, who has charge of his papers, countersigns his orders, and helps make his reports; and a quartermaster, ranking as first lieutenant, who has charge of the supplies for the regiment.

In cavalry regiments, the quartermaster has charge of all the supplies except the food for the men, which is in the charge of a commissary, ranking as first lieutenant. The Brigade is composed of two regiments or more, and is commanded by a brigadier-general. A Division is composed of two or more brigades, and is commanded by a major-general. A Corps is composed of several divisions. Each general has an adjutant-general and a quartermaster-general, with such other aids, detailed from the service, as he needs. In times of peace, there is no aggregation of troops in brigades or divisions. The major-generals command divisions of the national territory or departments, and brigadier-generals have charge of subdivisions thereof. In time of war, it frequently happens that colonels command brigades and occasionally divisions, and that other officers hold commands equally above their rank. The lieutenant-

general is the highest officer at present provided for by the law. He has his headquarters, or office, at Washington in time of peace. In time of war, if he takes personal command, his headquarters are with himself. The office of general, the highest known in the history of American military law, has been filled, but is now not in use. Soldiers are enlisted, in nearly all the large cities, for a definite length of time, usually for five years. They must be sound in health and of good character. The officers are appointed from the graduates of the Military Academy at West Point. They serve during life unless they resign or are dismissed for misconduct.

THE MILITARY ACADEMY is under the control of a superintendent, who is usually an officer of high rank and of great experience. He is assisted by a corps of instructors and other officers. Each member of the House of Representatives is entitled to nominate for appointment to the Military Academy one person from his district. Each territory, and the District of Columbia, is entitled to the appointment of one person, and the President may appoint ten persons at large. Candidates for such appointment must be between the ages of seventeen and twenty-two years, of sound physical health, of good moral character, and must be at least five feet in height. They must have had a fair education, and must pass an examination in English Grammar, Descriptive Geography, and the history of the United States. Members of the Academy are called cadets. They serve four years, during which time they are instructed in army discipline, and in all the branches of human knowledge deemed necessary for the discharge of any military service. While at the Academy, they receive one soldier's ration and five hundred dollars a year

from the government, and must agree to serve the nation, in the army, not less than eight years, after graduation. Upon graduation, they are appointed to positions in the army, usually as second lieutenants. Promotions in the army are mostly made by seniority of rank; occasionally for meritorious conduct.

General Henry Knox, of eminent Revolutionary service, was the first to fill the office of Secretary of War. Among the noted statesmen and soldiers who have followed him in that office are General Dearborn, John C. Calhoun, Lewis Cass, William L. Marcy, Jefferson Davis, and Edwin M. Stanton.

CHAPTER XIV.

ADMINISTRATIVE DEPARTMENT. — Continued.

DEPARTMENT OF THE NAVY.

THIS department was not created at the beginning of the government, but all naval matters were controlled by the Department of War until 1798, when this branch of the service was added. The Secretary of the Navy has control of all the affairs of the government relating to its navy and naval operations. The detailed work of the department is divided among several bureaus, as follows:—

1. BUREAU OF YARDS AND DOCKS. As its name indicates, this bureau attends to the navy yards, docks, and wharves, as well as to the buildings and machinery, and other property connected with them. It has charge, too, of the Naval Asylum.

2. THE BUREAU OF NAVIGATION has control of the Naval Observatory, Hydrographical Office, Naval Academy, and the issuance of the nautical almanac. It furnishes to vessels the maps, charts, chronometers, and such other appliances as are needed by the officers of the ships, and such books as are needed for the study of the improvement of navigation.

3. THE BUREAU OF ORDNANCE directs in the purchase or fabrication of cannon, guns, ammunition, and other military equipments of vessels of war.

4. THE BUREAU OF CONSTRUCTION AND REPAIRS attends to building and repairing the vessels and boats used in the naval service, and to the purchase of material therefor.

5. THE BUREAU OF EQUIPMENTS AND RECRUITING furnishes ships of war with their sails, anchors, water-tanks, and other equipments for sailing, and conducts the recruiting service for seamen and sailors.

6. THE BUREAU OF STEAM ENGINEERING superintends the construction and repair of the engines and machinery for naval use.

7. THE BUREAU OF PROVISIONS AND CLOTHING purchases the provisions and clothing for the navy.

8. THE BUREAU OF SURGERY AND MEDICINE manages everything relating to the purchase, distribution, and use of medicine and medical stores, surgical instruments, to the treatment of the sick and wounded, and has charge of the marine hospital.

9. NAVAL ACADEMY. This is located at Annapolis, Maryland, and is under the charge of a superintendent. In this institution, young men are trained for officers of the navy. Each member of the House of Representatives is entitled to nominate, for appointment, one person from his district. Each territory, and the District of Columbia, is also entitled to one, and the President may appoint ten at large. Candidates for admission must be between the ages of fourteen and eighteen years, physically sound, and possessed of a fair education in the common branches and in the elements of Algebra. The term of study and discipline is six years, during which time the student is drilled and instructed in all the discipline and learning deemed to be necessary to naval officers. The students

receive one ration a day, and five hundred dollars a year. The officers of the navy are appointed from the graduates of the Academy, and they are promoted in the line of seniority, usually, but oftentimes for meritorious deeds.

10. THE NAVY. The officers of the Navy consist of Admiral, Vice-Admiral, Rear-Admiral, Commodore, Captain, Commander, Lieutenant-Commander, Lieutenant, Master, and Ensign.

The vessels of the United States Navy are divided into four classes:—

(a) Vessels of the *first class* carry forty guns, or more, and are commanded by commodores.

(b) Vessels of the *second class* carry less than forty, and more than twenty, guns, and are commanded by captains.

(c) Vessels of the *third class* carry twenty guns, or nearly that number, and are commanded by commanders.

(d) Vessels of the *fourth class* are those of the smallest size, and are commanded by lieutenant-commanders.

The admiral has command of all the navy of the nation, and may command a fleet in person. In active service, a commodore often has command of a squadron, or even of a fleet; a captain may command a first-class vessel, or even a squadron; and other officers may hold command above their rank, as is done sometimes in the army.

The Navy Department has had at its head many men of high character, such as J. Crowningshield, S. L. Southard, James K. Paulding, Abel P. Upshur, George Bancroft, the historian, John P. Kennedy, Gideon Welles.

CHAPTER XV.

ADMINISTRATIVE DEPARTMENT.—Continued.

DEPARTMENT OF THE INTERIOR.

THIS department was not organized until 1849. Prior to that date, the various functions of government, now performed by that department, belonged to several of the other departments. The duties of the officers of this department are confined to matters of a domestic nature. There are several bureaus for the proper and systematic discharge of its duties.

1. THE COMMISSIONER OF PUBLIC LANDS is charged with the survey, management, and sale of the lands of the government and the issuance of patents therefor.

2. THE COMMISSIONER OF PENSIONS examines and adjusts all claims arising under the laws granting bounties or pensions for military or naval services.

3. THE COMMISSIONER OF INDIAN AFFAIRS has charge of all matters connected with the government of the Indians, whether in tribes or on reservations. Treaties are made with the Indians, their lands are managed, bought and sold, annuities paid, rations issued, trade conducted, through agents of this bureau.

4. THE COMMISSIONER OF PATENTS examines and passes upon all applications for patents for useful discoveries, inventions, and improvements.

5. THE COMMISSIONER OF AGRICULTURE obtains and preserves all information possible concerning agriculture,

whether obtained from books, correspondence, practical and scientific experiments, by collection of statistics, or by any other possible means, — collects seeds and plants, and tests them. He distributes information, seeds, and plants among agriculturists and others interested in that branch of industry.

6. THE COMMISSIONER OF EDUCATION is directed to make investigations concerning the condition and progress of education in the several states and territories, collect information respecting the organization and management of schools, school systems, and methods of teaching. The statistics and other information collected is distributed to all those interested in education.

7. THE CENSUS is taken every ten years under the direction of this department, by a special officer appointed for that purpose, styled the Superintendent of the Census. He is appointed for the special census, and holds his office until the conclusion of the work, only.

8. THE SUPERINTENDENT OF PUBLIC DOCUMENTS keeps and distributes all the documents and other publications issued by the government for distribution. The laws provide for the proper distribution of them in such manner that they will be sent to such only as are interested in their contents.

Patents. — The inventor or owner of a new or useful art, machine, manufacture, or composition of matter, or improvement thereof, not known to, nor used by, others in this country, nor patented nor described in any printed publication in this or any foreign country, before the claimed invention, and not in public use nor on sale for a year before, may have a patent for the same. The applicant for a patent must send a written or printed descrip-

tion of the invention to the commissioner of patents. Such description must include the manner and process of making, constructing, compounding, and using the discovery in plain language,—the explanation and description to be so clear and plain as to distinguish it from all other things of a like nature,—drawings and models of machines to accompany description, if possible. The applicant must also swear that he believes himself to be the first inventor or discoverer of the article for which a patent is asked.

Upon the receipt of such application, the examiner of the office examines it and the drawings and models, and if the claim of the applicant appears to be just, letters are issued, granting to the person named the exclusive right to make, construct, compound, and to sell the article named, in the United States, for a period of seventeen years. Upon every article so patented, or upon its wrappings, and issued for sale under such patent, there must be legibly cut, stamped, moulded, or printed, as the case may be, the word “Patented” and the date of such patent. If, at the end of the seventeen years, the patentee can show that he has received no reasonable amount of remuneration from his invention, he may have his patent extended seven years. Notice of application for such extension must be published under the direction of the commissioner of patents.

TRADE MARKS. The patent office has charge, also, of the issuance of “trade marks.” These are devices which are frequently adopted by manufacturers or dealers to mark the goods in which they deal, or which they make. Upon a proper application, with a full statement of the facts of the matter, a certificate will be issued and the

persons named will have, thereafter, for thirty years, the exclusive right to the use of such trade mark. The words "trade mark" must be used in close connection with the device adopted, in order to be a protection. At the expiration of the thirty years, the certificate may be renewed for another thirty years.

CHAPTER XVI.

*ADMINISTRATIVE DEPARTMENT. — Continued.**DEPARTMENT OF THE INTERIOR. — Continued.*

THE PUBLIC LANDS.

THE public land of the United States is divided into townships, which are six miles square, and contain thirty-six sections. Each section comprises six hundred and forty acres. These sections are subdivided into forty-acre tracts.

MAP OF A TOWNSHIP, showing how the sections are numbered:—

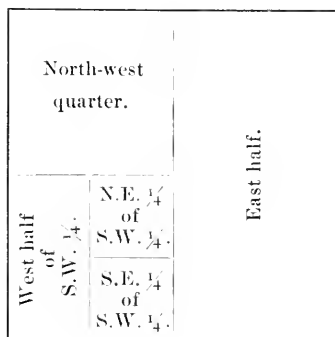
6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

MAP OF A SECTION OF LAND, showing how it may be subdivided or described:—

This division and description can be varied so as to describe the north half, the south half, or the west half; also, any other quarter, or half of a quarter, or quarter of a quarter. An eighty-acre tract may comprise the north-west quarter of the south-east quarter, and the north-east quarter of the south-west quarter,—so a

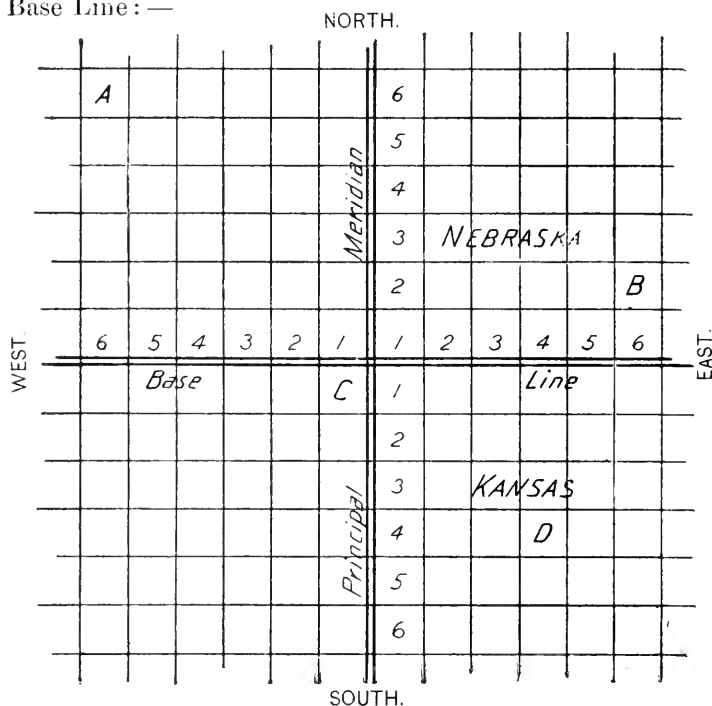
quarter-section may be composed of the four central forty-acre tracts.

In making its surveys, the government establishes a base line, generally the line dividing states, and the townships are numbered north and south of this base line. Another line, sometimes a meridian, is taken, and the ranges are numbered, sometimes east, but generally west, of this line. A tract of government land is described as lying in such a township north or south of a named base line and in such a range east, or west, of such a meridian. As an example; the boundary line between the states of Kansas and Nebraska is a base line. The sixth principal meridian is the boundary line of the counties (in Nebraska) of Jefferson on the east, and Thayer on the west, running north through the state. In the state of Nebraska, all the land is numbered by range from that principal meridian. Land in the north-eastern township of Saline county would be described as in township eight, north,



and in range four, east of the sixth principal meridian, in Nebraska. In like manner, the land lying in the township in which is situate North Loup, in Valley county, Nebraska, would be described as in township eighteen, north, in range thirteen, west of the sixth principal meridian, in Nebraska.

Following is a chart showing how land is surveyed and described with reference to a Principal Meridian and a Base Line:—



A = section six, in township six north and range six west of the Sixth Principal Meridian, in Thayer County, Nebraska.

D = section twenty-two, in township four south and range four east of the Sixth Principal Meridian, in Washington County, Kansas.

1. Cash Sales. — The government disposes of the public lands in several methods. After they are surveyed, they may be offered for sale to the highest bidder for cash, so that the price is not less than the amount fixed by law, namely: \$1.25 an acre for land outside the limits of the grants to railroads, and \$2.50 an acre for land inside such grants. This method of sale has been abandoned in practice, although it is in force in the statute.

2. Pre-emptions. — The unsold land may be settled upon by the head of a family, man or woman, or by a single person who is twenty-one years of age. A pre-emptor must make actual settlement and occupancy, and must build a house upon it. Within thirty days thereafter, he must file a declaration of intention to purchase. He must occupy and improve the land continuously during one year, at the end of which time he must make proof of the occupancy and improvement, and pay for the land at the government price. The amount is limited to one hundred sixty acres to each pre-emptor.

3. Homesteads. — A homestead of one hundred sixty acres can be obtained without any payment, except for land-office fees, by any head of a family, man or woman, or by any single person who is twenty-one years of age, and who has never borne arms against the United States, nor given aid or comfort to its enemies. For this purpose a formal entry is made at the time of settlement. A residence upon, and improvement of, such land, continuously, during a period of five years, is necessary. Proof of such settlement and improvement must be made before patent can be issued.

4. Soldier's Homestead. — A special act of Congress was passed soon after the close of the late war of 1861-65.

by which the time during which a soldier or sailor served in that war with the Union forces, should be deducted from the five years required for residence. The soldier must so reside upon the land at least one year. Also, a declaration of intention to take a homestead under such act can be made six months before formal entry and settlement need to be made.

5. Timber-Culture Claims. — Any head of a family, man or woman, or any single person who is twenty-one years of age, may enter one hundred sixty acres of land without any payment, except for the fees of the land office. Land so entered must be free from timber of all kinds. In order to obtain title from the government, the person must cultivate the land during eight years, as follows: If the entry is one hundred sixty acres, he is required to break and plow five acres, the first year; during the second year, he must put into a crop or into trees the five acres already plowed, and must break and plow five acres more; in the third year, the land broken the first year must be set out to trees, or planted to timber seed, not less than twenty-seven hundred to the acre; in the fourth year, the other five acres must be planted in the same way. Thereafter, the trees must be cultivated so that, at the time of proving up, the ten acres shall contain not less than six hundred seventy-five living, thrifty timber trees growing upon each acre. Proof may be made at the end of eight years from the date of the entry, or within five years thereafter, and title received.

6. Other Lands. — There are provisions of law by which persons may obtain lands containing minerals, coal, stone, timber, desert lands, and saline lands, by making a definite amount of improvement, or by doing work to a certain amount thereon each year.

The homestead law is the only part of the land system now remaining, that is interesting to the average citizen. The rights to acquire lands by direct purchase, and under the pre-emption and timber-culture acts will soon be repealed. The acquisition of the other lands, last mentioned, cannot be made without more capital than the ordinary citizen possesses. The land for agricultural purposes must, hereafter, be acquired under the homestead act.

Among the men of great ability who have filled the office of Secretary of the Interior, may be mentioned Thomas H. Ewing, Alexander H. Stewart, James Harlan, Jacob D. Cox.

CHAPTER XVII.

ADMINISTRATIVE DEPARTMENT. — Continued.

DEPARTMENT OF THE POST-OFFICE.

THE officer at the head of this department is called the Postmaster-General. He has control of all matters connected with the management of the post-offices of the nation, the carrying of the mail, both domestic and foreign, and the appointment of postmasters whose salaries are less than one thousand dollars per year. The Postmaster-General has three chiefs of bureaus, styled Assistant Postmaster-Generals, besides other subordinate officers.

1. THE FIRST ASSISTANT POSTMASTER-GENERAL has charge of the appointment-office, and attends to the establishment and discontinuance of post-offices, changes of sites and of names, appointment and removal of postmasters within the jurisdiction of the department, and of local agents. He also attends to the supplies of stamps and balances, blanks, and stationery for the service. He supervises the ocean mail steamship lines, and the foreign and international postal service.

2. THE SECOND ASSISTANT POSTMASTER-GENERAL is at the head of the contract-office. He manages the mail routes, places them under contract, determines the trips, conveyances, departures, and arrivals on all mail routes, the points of distribution, and the regulations for the government of the domestic mail service.

3. THE THIRD ASSISTANT POSTMASTER-GENERAL is the head of the finance-office. He supervises such financial business of the department as is not devolved upon the Sixth Auditor of the Treasury, embracing accounts with draft-offices and with other depositories of the department, issues warrants and drafts in payment of balances due contractors, and inspects returns and balances of postmasters. He also issues stamps and stamped envelopes, and has charge of the Dead-Letter Office.

4. THE SUPERINTENDENT OF THE MONEY-ORDER SYSTEM makes all the rules and regulations concerning the issuance of money orders and postal notes, and prepares and issues all the blanks for that system.

5. THE ASSISTANT ATTORNEY-GENERAL is a law-officer attached to this department to give advice concerning the construction of statutes, to dictate the forms of contracts, and to prosecute suits against contractors and others.

6. THE FOREIGN SERVICE. The United States has postal treaties with nearly all the organized nations of the world, certainly with all the civilized nations, by which there are regular mail routes established between them and the United States for the transmission of mail for the citizens of all those countries. The rates of postage are considerably in excess of those charged upon mail matter in the United States, and are not the same with the several nations.

7. THE MONEY-ORDER SYSTEM. By this system, a person may deposit money in one post-office and have it paid to any one named at another post-office. The system is similar to that by which money is sent by bank-drafts. The charge for such service is very light, from three cents to twenty-five cents. The money orders are limited in

amount to fifty dollars, and no person can obtain more than three orders in one day. A postal note is a similar device for sending money, and is restricted to sums less than five dollars, for which a charge of three cents must be paid. The postal note is drawn upon the post-office of a place named, or upon any office generally, and is payable to bearer. Unused money orders and postal notes can be cashed at the office where drawn.

8. LETTER REGISTRY. A person may have a letter or other mail package registered for a fee of ten cents additional to the regular postage thereon. Some security to valuable packages is added by this system, as the postal messenger receipts for all packages carried by him, and a lost package may be traced with some prospect that it can be found. Comparatively few registered packages are lost.

9. IMMEDIATE DELIVERY. If the sender of a letter desires the letter delivered at once upon its arrival at the office of destination, he can attach to the letter an "immediate delivery stamp," costing ten cents, and it will be delivered by special messenger, within a mile of the post-office. This system is a recent one. It was tried, at first, at the larger offices, and has lately been extended to all the post-offices.

10. THE DEAD-LETTER OFFICE is a device by which letters, not taken by those to whom sent, may be returned to the writers. In all offices, all letters unclaimed at the end of a week are advertised. If not then claimed at the end of four weeks, they are sent to the Dead-Letter Office at Washington. All letters put into a post-office, unstamped, or not properly addressed, and unreclaimed, are sent to the same office. At the Dead-Letter Office, these

letters are opened by confidential clerks. Such of them as contain valuables, or are of such a nature as to make it desirable for their return to the writers, are so returned, at the expense of the department, if the writer's name and address can be ascertained from the letter. The office annually finds vast numbers of letters, containing valuables or money, and yet without signature or other clue so as to make a return possible. Even in such cases, efforts are always made to find the writers and to return the letters.

11. POSTAGE. The rates for postage in the United States are as follows: (*a*) On letters, or written matter sealed, two cents for one ounce or fraction thereof. (*b*) On printed matter issued regularly, mailed by the publisher, one cent a pound. (*c*) On miscellaneous printed matter, one cent for two ounces or fraction thereof. (*d*) On merchandise, not exceeding four pounds, one cent an ounce. Number (*b*) is payable by cash, all the others by stamps affixed to the mail matter.

The office of Postmaster-General has been filled by many men of national renown, among them Samuel Osgood, Timothy Pickering, Return J. Meigs, Amos Kendall, Jacob Collamer, Joseph Holt.

CHAPTER XVIII.

ADMINISTRATIVE DEPARTMENT.—Continued.

DEPARTMENT OF JUSTICE.

THE head of this department is the Attorney-General. He is the law-adviser of the government. By law, he is made superintendent of the attorneys and marshals in all the judicial districts. He has three Assistant Attorney-Generals and a Solicitor-General, to aid him in the details of his duty. The business of this office may be classified as follows:—

1. TO GIVE OFFICIAL OPINIONS upon the current business of the government, whenever called for by the President, by the head of any department, or by the Solicitor of the Treasury.

2. TO EXAMINE AND ADVISE concerning applications for pardons, reprieves, and commutations of sentence for offenses against the laws of the United States.

3. TO EXAMINE APPLICATIONS for appointment to judicial and law-offices.

4. TO EXAMINE TITLES to the lands purchased for government business, and the bonds given by public officers.

5. TO CONDUCT AND MAKE ARGUMENTS in the Supreme Court of the United States, in all suits wherein the government has any interest, and in other courts where the interests of the government is so important as to justify it.

6. TO ATTEND TO OTHER SUITS, arising in any department, when requested by the head of such department.

Some of the most eminent lawyers of the nation have held the office of Attorney-General. Edmund Randolph was the appointee of Washington. Since then, the office has been filled by Judge Parsons, of Massachusetts, Caesar A. Rodney, William Pinckney, William Wirt, Felix Grundy, John J. Crittenden, Reverdy Johnson, Jeremiah S. Black, Caleb Cushing, William M. Evarts, Ebenezer R. Hoar, and others.

CHAPTER XIX.

MISCELLANEOUS.

Naturalization. — An alien white person, an African, or person of African descent, may become a citizen of the United States. At any time after arrival, he must declare his intention to become a citizen and to renounce all former allegiance to any other government, and swear to support the constitution and laws of the United States. This must be done in writing before a clerk of a court having a seal. This declaration must be made at least two years before he can receive his final papers. After having resided in the United States five years, he may be admitted to full citizenship by appearing before a court of record, in public session, and formally renouncing allegiance to all other governments and taking the oath of allegiance to the United States. In order to be so admitted to full citizenship, he must be a man of good moral character, must be attached to our form of government, and must be well-disposed to good order and to the well-being of this government. Such aliens of the above description as have an honorable discharge from the army or navy for service of one year may be admitted to full citizenship without any preliminary declaration of intention, and need not prove more than one year's residence. Aliens arriving here while under eighteen years of age may be admitted to full citizenship after five years' residence, without any

first papers. The widows and children of such aliens as have taken out their first papers, and who died before being admitted to full citizenship, become full citizens without farther formality. Children under twenty-one years of age, of naturalized persons, become citizens with their parents. No citizen, subject, or denizen of a country with whom the United States may be at war can be admitted to citizenship, or even file his declaration of intention to become such. Persons who have made their declaration of intention to become citizens, and who serve three years thereafter in the merchant-marine of the United States, are admitted to citizenship without longer residence. In some of the states, aliens cannot vote until admitted to full citizenship, and in other states they may vote at once after they have declared their intention to become citizens.

Copyrights. — This is an exclusive privilege, reserved to any citizen or resident of the United States, to print, publish, and sell, any book, map, chart, engraving, painting, drawing, photograph, dramatic performance, or musical composition, of which he is the author, engraver, designer, inventor, or owner. The object is to encourage authors and to furnish them the means of securing compensation for their work. This they could not secure if any one could reproduce and sell the products of their labor or of their genius without payment. A copyright carries the right of ownership, and may be bought and sold like other personal property. It must be conveyed by writing, a copy of which must be filed in the office of the Librarian of Congress. In order to obtain a copyright, a copy of the title of the publication must be sent to the Librarian of Congress before publication. Within ten days after publication, two copies of the publication itself must be sent

to the Librarian of Congress. These two filings will cost one dollar. A copyright extends for twenty-eight years, and may be extended fourteen years longer. In order to secure the full right granted by the copyright, a notice, similar to that published on the fly-leaf of this volume, must be printed in, or on, every copy of the publication copyrighted.

Smithsonian Institution. — In 1829, James Smithson, an Englishman, died. By his will, he bequeathed to the United States a sum amounting to \$515,169, for founding an institution for the “increase and diffusion of knowledge among men.” In 1846, Congress accepted the bequest and incorporated the Smithsonian Institution. It is located at Washington, and is largely under the direction of Congress. The incorporators were the President of the United States, the Secretaries of State, Treasury, War, and Navy, Postmaster-General, Attorney-General, the Chief Justice of the Supreme Court of the United States, the Mayor of the city of Washington, and the Commissioner of Patents.

The immediate directors of the Institution are the Board of Regents, constituted as follows: the Vice-President of the United States, the Chief Justice of the Supreme Court, three members of each house of Congress, two unofficial residents of the city of Washington, and four other citizens of the United States, of which no two shall be citizens of the same state. The President of the Senate appoints the three senators who serve during their term of office as senators, and the Speaker appoints the three members of the House, who serve two years. The Chief Justice is the chancellor and presiding officer of the Board of Regents.

The Institution has received and has charge of all the government collections in mineralogy, geology, natural history, botany, and its specimens of the arts and of foreign and curious research. It receives contributions from other sources, also. These collections are said to constitute the largest and best series of minerals, fossils, rocks, animals, and plants of the entire continent of America, in the world. The Institution issues publications devoted to scientific discoveries and discussion, contributed by scientific men of America and of other countries.

INTER-STATE COMMERCE.

In 1887, in pursuance of the powers given by Art. I., section 8, sub. div. 3, of the Constitution, Congress passed the so-called Inter-State Commerce Law, and authorized the appointment of a commission thereunder. The commission consists of five persons appointed by the President and confirmed by the Senate. It is charged with the duty to administer and enforce the provisions of the law, and has authority to suspend some of its provisions for good cause. It collects information about the management, cost, expenses, earnings, debts, and other facts bearing upon railroads and other inter-state commercial agencies. One aim of the law seems to be to prevent discrimination for or against persons, towns, or cities, and to prohibit pools and other combinations among railroads. The phraseology of the law is not free from doubt, and the scope and extent of the authority of the commission is not wholly clear.

Section 1 of this law declares that "all charges shall be reasonable and just; and every unjust and unreasonable charge is prohibited, and declared to be unlawful."

Section 2 defines an unjust discrimination, as the charging any persons different amounts for a "like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions."

Section 3 declares it unlawful "to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." These three sections are, in effect, a declaration and enactment of the common law.

The intent of the law is to do away with the many and manifest abuses that had grown up in connection with the carrying trade of the country: to secure to each shipper of goods all the rights and privileges had and enjoyed by any other: to prevent favoritism being exercised among passengers, whereby many were allowed to ride nominally free, but really at the expense of the paying passengers. Also to put an end to the injustice by which goods were carried long distances to favored competing points, or for a favored shipper, for the same or even a less sum than they would be carried but a moderate fraction of the distance to a non-competing point, or for a shipper not favored. To do away with the whole system of rebates which favored some shippers at the expense of others, thus enabling them to undersell in the market, and gradually but surely to drive out all competition.

It may not be within the power of this or any other law to wholly prevent the building up of monopolies, and to

block the way of the speculative and unscrupulous to undue advantages; but its aim and tendency are toward free competition, and a fair and just tariff of charges for services rendered, without respect to person or place.

The enforced publicity of the tariff of charges is a long stride toward equality of payments. Growing as the law did out of undoubted abuses of power on the part of transportation companies, the restrictions upon their unlimited power were required in the public interest. It became necessary that public authority should proclaim and enforce the rule of equal treatment as a fundamental doctrine.

Publicity of tariffs, and openness of agreements between the companies and all shippers, will tend to make secure uniformity of rates and of treatment. Public accountability is strongly conducive to strict impartiality, while it is also a foe to duplicity and favoritism. The responsibility of the companies to a public tribunal is promotive of a healthy public opinion, and conducive to much-needed reforms.

CHAPTER XX.

JUDICIAL DEPARTMENT.

THE student may have already learned, in the study of state governments, the need of a judicial department. There could be no good government without it. It may be called the balance-wheel, or regulator, of the government. The constitution provides for such a department for the national government.

I. The Supreme Court. — The constitution names and establishes this court and authorizes Congress to add such other, and inferior, courts as may be needed. The Supreme Court consists of a Chief Justice and eight Associate Justices.

JURISDICTION. This court has original jurisdiction in all cases that affect ambassadors, and other public ministers and consuls, whether they are in the service of the United States or of any other government, and in cases in which any state may be a party. In all other cases, suits must be begun in one of the inferior courts, and be brought to this court, by appeal, or by one of the other methods provided by law. Suits, in the state courts, involving a construction of the constitution of the United States, or of any of the laws or treaties made thereunder, may be appealed to this court.

II. Circuit Courts. — The whole of the United States is divided into nine circuits. In each circuit, one of the Justices of the Supreme Court holds court, and is assisted

by a judge, appointed by the President, and called a Circuit Judge. In fact, the Circuit Judge does most of the business in this court.

JURISDICTION. This court has original jurisdiction in civil suits wherein the amount of property involved is five hundred dollars, or more, and in all cases of crime against the United States. It has appellate jurisdiction in all civil cases, involving five hundred dollars or more, tried in the District Court.

III. District Court.—Each circuit is divided into a number of districts, so that each state shall constitute at least one district, and the larger states comprise two or more districts. In each district is a judge, appointed by the President, and called a District Judge. He presides in the District Court, alone or with the Circuit Judge.

JURISDICTION. The District Court has jurisdiction in all cases, civil or criminal, not required to be brought in the higher courts.

Any Justice of the Supreme Court, in his circuit, and any Circuit Judge, in his circuit, may sit at the trial of any cause, in any court inferior to his own, alone or with the inferior judge, and may render judgment in the same manner and with the same effect, as may be done by the judge of that court. The District Judge may sit in the Circuit Court, in his district, and try causes, in the absence of the Circuit Judge. All the judges are authorized to exchange with one another when needful. There are nine judges of the Supreme Court, nine Circuit Judges, and fifty-six District Judges.

IV. Supreme Court of the District of Columbia.—This court consists of a Chief Justice and five Associate Justices. It has about the jurisdiction of the District

Courts of the United States, but the causes of action must arise in the District of Columbia. Appeals are taken from this court to the Supreme Court of the United States.

V. Court of Claims.—This court is established at Washington, and is constituted with a Chief Justice and four Associate Justices. It has jurisdiction to hear and determine claims against the United States. It does not hear *all* claims against the government; but such claims, only, as have some foundation of law to rest on. Claims, founded upon any law of Congress, or upon any regular order of the President, or of the head of one of the departments, or upon any contract with the government, if the officer making the contract had any authority to make it, may be presented to this court and heard. Congress often refers to this court, for decision upon disputed facts, the claims of paymasters, quartermasters, and other disbursing officers, as well as other claimants where the grounds of relief are not free from doubt. Congress usually makes an appropriation to pay the awards rendered by this court.

VI. Territorial Courts.—Each territory is provided with a court, consisting of a Chief Justice and two Associate Justices, appointed by the President. The jurisdiction of the territorial courts extends to cases arising within the territory, under the laws of Congress and of the territories, and appeals are taken to the Supreme Court.

VII. Officers of the Courts.—The Attorney-General is the official representative of the government before the Supreme Court. He is usually represented by one of his assistants. This court has a clerk to record its proceedings, and a reporter to publish its decisions. Each Circuit

Court has a clerk to keep the record of the business done. These courts have no authorized reporter. Decisions of these courts are published, either by the judge who renders them, or by some attorney of the court under the judge's sanction. Each district also has a clerk, and decisions are published in the same manner as by circuit courts. In each district there is a District Attorney, appointed by the President. He is to represent the government in all criminal prosecutions, and in all circuit cases in which the United States has an interest.

This court has a marshal, also, who enforces the decrees, or judgments of the court, and performs services similar to those performed by sheriffs in state courts. The District Attorney and Marshal act for the Circuit Court within and for their district. Each Territorial Court, and the Court of the District of Columbia, also, has a district attorney, marshal, and clerk. All these courts, except the Supreme Court, the Court of the District of Columbia, and the Court of Claims, have grand juries and trial juries, who perform duties the same as those of state courts, of which the student may have already learned.

VIII. Terms of Service. — The judges of all the courts are appointed by the President, and confirmed by the Senate. They hold their offices during life, unless they resign, or are dismissed by impeachment; except territorial judges, who serve four years unless sooner removed. It is thought that judges who hold by so firm a tenure as that will be more independent in the discharge of their duties, will be more disposed to hold to the law and to the right, without regard to public opinion or to the pressure of politicians; whereas, judges elected, or appointed for short terms, will be liable to try to please

the appointing power, and will be less independent. For the same reason, the constitution provides that their salaries cannot be diminished during their terms of service. Thus, they have no reason to fear popular clamor or any displeasure of Congress. The District Attorney and Marshal are appointed by the President and Senate, and they hold their offices for four years, but may be removed at any time by the President. The clerks are appointed by the judges, and hold their offices during the pleasure of the judges.

IX. Trials. — The methods of trials in the courts do not differ greatly from what the student may have already learned on this subject. The methods used in the state courts are the same, substantially, as those used by the courts of the United States. The fifth amendment to the constitution provides for indictment by a grand jury in all criminal cases. The process of selecting the grand jury is somewhat different from that employed for obtaining the grand juries of state courts, but the duties of the two bodies are the same. Article III. of the constitution provides that the trial in all criminal cases shall be by a jury, except in cases of impeachment. This exception is practically extended to such violations of the articles of war, adopted by Congress for the government of the army and navy, as amount to crimes. Such crimes are tried by courts-martial, composed of officers of the service.

CHAPTER XXI.

JUDICIAL DEPARTMENT.—Continued.

X. Jurisdiction of United States Courts.—The word “jurisdiction” has been used frequently, and it is time to define it. It is formed from two Latin words, “jus,” *a right*, and “dictio,” *a speaking*. Together they mean a speaking by right, or the right of speaking. When applied to courts, the new word means a right to hear and to decide a case. Courts do not have a right to hear and to decide any suit that may be brought to them. The business of courts would be much mixed up if they had that right. There is as much need for order and system in the practice of courts, as in the proceedings of Congress or in conducting a business enterprise. For this reason some courts are authorized to try petty cases only, small cases, such as under a state government may be tried by a justice of the peace. Some courts cannot hear suits relating to some subjects, as, in the states, probate matters are confined to one class of courts, and some of the courts cannot try cases involving title to real estate. Other courts can entertain such suits only as arise under certain laws. State courts can have power to try such suits only as arise or grow out of the constitution and laws of that state. So the courts of the United States should be, and are, authorized to try such suits only as arise or grow out of the constitution, laws, and treaties of the United States; they can try such suits only as the constitution permits

them to try. There are nine classes of cases which the constitution directs the courts of the United States to entertain.

1. All cases, in law or equity, arising under the constitution, the laws of the United States, or of treaties made under their authority. If the laws are passed, and the treaties are made, under the authority of the constitution, then all cases arising under those laws and treaties arise under the constitution. Whenever the proper construction or interpretation of any part of the constitution, or of any law, of the United States, or treaty between the United States and a foreign nation, can be called for, or is needed, in a suit, that suit arises under the constitution, laws, or treaty of the United States, and can be brought in the courts of the United States.

If such suit should be brought in a state court, it can be transferred to the courts of the United States, as soon as that fact appears to the court. It would not be wise for the general government to permit the state courts to decide upon the meaning of the constitution or laws or treaties of the United States. A sovereign nation must be its own judge of its duties. It must not submit the interpretation of its own laws to the arbitration of any other power. Besides, all such construction or interpretation as determines the meaning of the constitution, laws, or treaties of the United States should be uniform, and be based upon the same principles. This can be only when one court gives the construction. It is not possible to suppose that the supreme courts of thirty-eight different states, many of them with directly opposite interests, could agree, independently, upon the same construction of the laws or constitution of the United States. It is cer-

tain that they would not agree. People guide their actions so as to conform with the law of the land in which they reside, and the decisions of the courts have the force and effect of law. With different constructions of a law, given by courts in different parts of the country, people would be at a loss to know how to act. The constitution and laws of each state are construed by the supreme court of that state for the guidance of the citizens of that state, and of all interested; and the constitution, laws, and treaties of the United States are construed by the Supreme Court of the United States for the guidance of its citizens, and of all interested in them.

2. Ambassadors, other public ministers, and consuls are accredited by one nation to another, and are, by usage, if not by treaty, placed under the protection of the government to which they are sent. For this reason, the courts of the United States must have exclusive jurisdiction over all suits in which such persons are interested. The words of the constitution apply to all officers, whether in the service of the United States or of a foreign country accredited to the United States.

3. European nations bordering upon the ocean or the great seas have always had courts that had exclusive jurisdiction of suits arising from ships and seamen. As ships of war, in England, were under the command of an admiral, the courts that tried suits arising from war-ships were called courts of admiralty, and the courts that tried suits arising from merchant-ships were called maritime courts. As we have seen heretofore, the boundaries of states stop at the edge of the ocean, as do also their jurisdiction, while the boundaries and jurisdiction of the United States extend far into the water. Thus, all ships, even

though belonging to citizens of states, or of foreign nations, while near the coast, on the ocean, or "high seas," as it is often called, are within the power of the United States, and the courts of the nation are given exclusive jurisdiction over them and over any property which they may contain.

4. As a sovereign nation cannot permit another nation to determine its duties for it, nor to construe its laws, so it cannot permit an inferior or subordinate power to do so. The states are inferior, and, in great measure, subordinate, to the United States, and the courts of the states should not be allowed to sit in judgment upon the interests of the nation. All cases, therefore, in which the nation has any interest, must be tried in the United States courts.

5. When two nations, equal in authority and dignity, disagree, neither one should have the right to settle the disagreement; the matter of disagreement should be, and usually is, left to the decision of some third power, supposed to be friendly to both. So, when two states are involved in a suit, the courts of neither one should have the right to decide. As both states are equal in authority and dignity, and as the United States is supposed to be equally friendly and impartial to both, there is reason in the provision of the constitution by which the courts of the nation take jurisdiction and decide.

6. For the same reason, as stated in the fifth paragraph above, the courts of the United States decide all cases between states and citizens of other states. The words of the constitution, as originally adopted, were construed by the Supreme Court to mean that a citizen of one state could sue a state in the United States courts. As this construction was inconsistent with that (*even restricted*)

grade of sovereignty claimed by the states, an amendment was adopted in 1798 (Art. II), prohibiting suits of that nature.

7. For reasons stated above in the last two paragraphs, suits between citizens of two states are tried in the courts of the United States.

8. Before the adoption of the constitution, several colonies had made grants of land lying in the districts claimed by other colonies. In some instances, the same land was granted by two colonies to different persons. It was thought very probable that the courts of the states making the grants would sustain the action of their states, which might result in serious complications of titles. The constitution, therefore, wisely provides that in cases of such double grants, the courts of the United States shall have exclusive jurisdiction, even though all the parties interested reside in one state.

9. Following out the reasons stated in the last four paragraphs, the constitution provides that in all cases between states, or citizens thereof, on the one side, and any foreign state or any citizens or subject thereof, on the other side, the courts of the United States shall have jurisdiction.

XI. Territorial Jurisdiction. — The courts of the several territories have jurisdiction to try all cases that arise within the territory under the laws of their respective territories, as well as in the other cases mentioned in the list treated of above. In the District of Columbia, the court of that district has jurisdiction of such cases only as arise within the district. The District Courts are confined, in their jurisdiction, to cases arising within the limits of their districts. For instance, in the district of

Rhode Island, all cases that arise in that state must be tried in the District Court of Rhode Island. In Iowa, cases arising in the southern half of the state must be tried in the District Court of the southern district of Iowa, and those arising in the northern part of the state must be tried in the District Court of the northern district of Iowa. The Circuit Court cannot have jurisdiction of any case that arises outside the limits of its circuit.

So, appeals from a District Court to a Circuit Court are taken to that court in whose circuit the District Court is situated. All this is the positive command of the constitution, with respect to trials for crimes. ♦The laws of Congress apply the rule to civil cases. It is best that all cases should be tried as near as possible to the place where they arise, so as to avoid the expense of taking witnesses and parties great distances. In criminal trials it is especially important, for the accused ought to be tried in a locality where he may have friends to help him, and where his witnesses can be secured without great expense. It has already been shown that this is a right guaranteed by the constitution. In each district a town or city is designated by law for the sessions of the District and Circuit Courts for that district. There the court records are kept, in a building usually erected by the government.

XII. Impeachment.—The trial by impeachment is a judicial act, although it is performed by the legislative branch of the government. The constitution declares that the President, Vice-President, and all the civil officers of the United States shall be removed from office by impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. The members of Congress are not included in the list of civil officers; they

can be removed from office only by the vote of two-thirds of the house to which each belongs. The "high crimes and misdemeanors" of which a civil officer may be convicted by impeachment includes all the more serious offenses named in the list of crimes; misdemeanors are the terms by which the less serious offenses are known. In addition to these may also be reckoned offenses of such a nature as make them unfit for the discharge of the duties of their offices: some of these are political, and some are moral. There is no rule declaring what is, and what is not, an impeachable offense.

IMPEACHMENT. The House of Representatives impeaches, and the Senate conducts the trial. The methods and proceedings in impeachment are usually as follows: A member of the House introduces a resolution which declares that such an officer, naming him, ought to be impeached and tried for crimes which the resolution specifies in general terms or in detail. Or, a resolution may, in like manner, be introduced, instructing a committee named to examine and to report if such an officer should not be impeached and tried for crimes named. In either case, if the House agrees to the resolution, it is sent to a committee, usually to the Judiciary Committee. The committee makes an examination of the facts and of the law, and if it finds a cause for impeachment, it so reports to the House, at the same time presenting articles of impeachment against the officer. These articles set out fully, very much after the manner of an indictment in a court of law, all the details of time, place, and other circumstances of the offense. If these articles are adopted by the House, they are sent to the Senate. This body then resolves itself into a Court of Impeachment, and summons the

officer named to appear and to plead to the articles. The articles are presented by a committee selected by the House, and called Managers, who conduct the prosecution on behalf of the House.

THE TRIAL is conducted very much like an ordinary law-suit. The Senate is the judge at the same time that it is the jury. When the President is on trial, the Chief Justice of the Supreme Court presides. In other trials, the ordinary presiding officer of the Senate acts. Testimony is taken on both sides if desired, and addresses are made by the managers and by the attorneys for the defendant officer. The senators give their votes, with or without a statement of their reasons. Their reasons may be given orally or in writing. Two-thirds of all the members of the Senate must vote for conviction in order to convict.

The judgment of conviction cannot extend beyond removal from office, and a disqualification to hold any office of honor, trust, or profit, under the constitution forever. The President has no power to pardon, reprieve, or commute the sentence. If the crime for which the officer is impeached is also a crime against the ordinary law of the land, he is still liable to be tried and convicted as an ordinary criminal for the offense, whether he is convicted or not on the articles of impeachment.

CHAPTER XXII.

RELATIONS OF THE STATES.

THE state has sole authority in all its own local affairs. The state government provides for the organization of counties, cities, and school districts, and it may repeal such provisions and make new ones at its pleasure. All the machinery for the government of the states is the creation of the people of the whole state, acting as a unit. The state must exist before the counties and other subdivisions of a state can exist. Neither towns, cities, nor counties have any rights of self-government except what are given to them by the constitution or by the laws, and such rights may be withdrawn by the state. The organization of the national government is upon a different plan. Before the formation of the constitution, there were thirteen colonies, each independent of each other, each possessing a right to self-government in all respects. The Articles of Confederation professed to place some restrictions upon these rights, but such restrictions existed only on paper. Upon the formation of the constitution, there was reserved to the states then forming the new nation, and to other states that might thereafter come into the union, a portion of the rights which each of the colonies had possessed. These rights, so reserved, were, as we have seen, such as relate to local affairs. The wider affairs, dealing with foreign nations, providing for, and attending to, the common welfare, were given into the keeping of

the national government. Nearly all the rights reserved to the states, and nearly all the authority granted to the general government, are enumerated in the constitution. We have found that certain authority was given to Congress, and certain power prohibited. In our farther study of the form of the government, we shall find that there are prohibitions upon the states and prohibitions upon the general government. The result of all the provisions of the constitution is that the general government is independent and supreme in all the relations of the nation with other nations, and in all matters that affect the people of two or more states or of all the states equally, with power to decide upon the extent of its own authority and to enforce its own decisions. Inside this general government are thirty-eight smaller governments, independent of each other, and of the general government in all matters of reserved rights in local affairs. The extent and limitations of this independence are largely within the determination of the general government. It will be seen, hereafter, that two-thirds of the states may change the character and extent of this independence, at pleasure, except in one particular. In that one respect, it requires the unanimous assent of all the states.

Prohibitions upon the States. — As we have seen that all powers not granted to the United States, nor expressly prohibited to the states, are reserved to the states or to the people thereof, we come now to consider the powers that are expressly prohibited to the states.

1. **ALLIANCE.** By the terms of the constitution, no state can enter into any treaty, alliance, or confederation. In another portion of the constitution, the power to make treaties is conferred upon the President and the Senate.

A treaty is an agreement between two independent states concerning any matter that affects them both,—usually applied to those matters of mutual interest touching trade or the intercourse of citizens. An alliance is a contract to act together, in case of war, or of threats of war. A confederation is a union of two or more governments in such manner that all act together under one government, yet retaining separate sovereignty over some matters as agreed upon. These are powers that could not be permitted to the states with safety to the nation. The theory of the government is that the nation is supreme, and to which the states, as organizations, are subordinate. The power to make treaties and alliances has already been conferred upon the national government, and this is a power that could not be granted at the same time to the states. There would be danger that the treaties and alliances might conflict one with another. There can be but one supreme power in a government. Besides, the treaties and alliances which the individual states might make would naturally be such as would be for the apparent interest of the people of the states making them, at the same time that they might be adverse to the interests of the people of other states, and of the whole nation at large. The student can see that such a state of affairs would not be endurable.

But this prohibition goes beyond a denial of the right of a state to make a treaty, alliance, or confederation with foreign powers. It is also a prohibition upon their power to make treaties, alliances, and confederations with one another or among themselves. Under the terms of the constitution, and the peculiar organization of the general government, there could be no oppression of any state, or

class of states, except by an alliance of other states. The general government looks after the interests of all. There would be no necessity for an alliance of any of the states for protection against the others or against the United States government. It would be manifestly improper for states to form alliances against one another when the interests of all should be identical. The government could not exist if alliances were allowed to be formed against the general government. The framers of the constitution thought that occasions might arise which would render this prohibition upon the states undesirable. The same article empowers Congress to remove the restriction, and to permit such alliances. Whether Congress could, by general laws, abrogate this constitutional provision so as to allow unlimited permission to the states in this matter, may well be doubted. It is more probable that each case of such alliance would have to be presented to Congress, accompanied by a full statement of the reasons making its consent proper. No such consent has ever been given so far in the history of the nation. [Art. I., sec. 10.]

2. WAR. In considering the powers given to Congress, we have found that the constitution confers upon Congress the power to declare war, to issue letters of marque and reprisal, to raise and support armies, to create and maintain navies, to organize and call forth the militia, and to make all the rules and regulations needed for the government of the armies and navies, for disciplining and arming the militia, and for disposing of the captures by land and water. All these powers belong to the war-making power. They must belong exclusively to one department of a government. If they belong to the national government, they must be withheld from the state

governments. The power to make war, and to do the other acts leading to war, are expressly prohibited to the states. Under certain circumstances, and with certain conditions, the constitution allows states to keep troops and ships of war in time of peace, and to engage in war. To these Congress may give its consent. It might happen that a border state might be so menaced by an unfriendly neighboring power that its safety and peace would be increased by the formation of an army from its own militia, in such manner as to be less expensive than the keeping of a standing army by the nation upon its frontier. The consent of Congress to that state of affairs is allowed by the constitution. If actually invaded, or if in such danger of attack by a foreign power as would make delay dangerous, a state has the right to engage in war. As soon as the danger is passed, or as soon as the general government has time to bring its army to the defense of the state attacked, the state troops will then be withdrawn, or be held in service under the command of the nation. [Art. I., sec. 10.]

CHAPTER XXIII.

RELATIONS OF THE STATES.—Continued.

3. MONEY. The states cannot emit bills of credit. These are notes intended to be used as money. The "greenbacks," issued by the national government, are bills of credit as meant by the constitution. This authority is given to Congress. If each state should be allowed to issue these bills at pleasure, there could be little, if any, security that the amount would not exceed the demands of business. The power to issue these bills is an important power, and its exercise has great influence upon all departments of business, and the authority to issue them should be confined to one department. For the same reason, too, the states may not compel the citizens to receive, as money, anything but gold or silver. The business of the United States is so intimately connected, organized upon the theory that the United States is one nation, and that the states are but parts thereof, that there could be no regularity in that business if the currency should be based upon different values in different states. In one state, whose credit was good, a paper dollar might be worth its face value; in another state, whose credit was not good, the paper dollar might be worth but fifty cents. Such irregularity in currency would seriously affect business. If we are one people, we must have but one currency, and that must be based upon actual values, and all be regulated by one central authority. [Art. I., sec. 10.]

4. IMPAIRING CONTRACTS. In treating the Bill of Rights, we have seen that neither the government of the United States nor of any of the states can pass a bill of attainder, or an *ex post facto* law. There is a farther provision, in favor of justice, that no state can pass any law impairing the obligation of a contract. A contract is an agreement to do or not to do a thing named. The obligation of a contract is understood to be that duty of performing it which is recognized and enforced by the law. If the laws can be changed after a contract is made, so as to release one of the parties to the contract from the duty of performing his part of the agreement, the obligation of that contract is impaired. A law is plainly unjust that would deprive a contractor of the right to enforce it, or that would so change the remedy as to make the right worthless. When a contract is made between A and B, the property then occupied by A, as a homestead, is liable to be taken for the payment of his debts, under the law, and he has no other property. Afterwards, and before the maturity of the contract, the law is changed so that the property occupied by A would not be liable for such a debt as that contract would create. If that law could be applied to the contract between A and B, and then deprive B of any probability of collecting his debt from A, that would be a law impairing the obligation of a contract. It would be a very unjust law that would work hardship to those affected by it. It would not be often that a legislature would intentionally pass a law impairing the obligation of a contract, but laws are often drawn very carelessly, and have a meaning not contemplated by the legislature. Courts construe laws by the usual meaning of the words, and not by the intended

meaning. Most of the states have a constitutional provision of the same character as this prohibition, and their own courts would declare any such law void. [Art. I., sec. 10.]

5. NOBILITY. It has already been shown that the United States cannot grant titles of nobility (page 116). There is more reason why the states should be deprived of that power. Titles of nobility create classes, or distinctions of rank, based on other foundations than that of merit or character. Such distinctions of classes create an aristocracy, which is inconsistent with a republican form of government, wherein all the citizens have equal rights and privileges under the laws. [Art. I., sec. 9.]

6. TAXES AND DUTIES. The power to levy impost duties has been given to Congress, and the revenue collected from importations is expended for the benefit of all the people of the nation. But the importations enter at a very few ports. If each state was allowed to levy a duty upon all goods entering that state, and to apply the revenue so derived to its own benefit, a few states would receive most of the benefit from such importations. These inequalities could not be satisfactory to the people of the other states, and would not be just. Besides, such a condition of affairs would create rivalry among the states, and cause a decrease in the rates of duty, and also compel the levy of a duty on goods brought from one state into another. Such duties, in a nation, ought to be uniform, and ought to be collected by the general government for the benefit of the whole nation.

But the people of each state are especially interested in the sanitary condition of its ports, more interested than the people of other states in keeping out unhealthful

goods and unhealthy people. For the purpose of attending to these matters, the constitution gives to the states power to make and to enforce rules and regulations for the inspection of vessels, immigrants, and goods entering its ports, and to impose the payment of such fees as shall pay the expenses of such inspection. In order that the states may not use this privilege as a cover for raising revenue, all the surplus, if any remains after paying the costs of such inspection, must be paid to the United States, and Congress may revise and control all such rules and regulations. A fee collected from vessels for paying the cost of keeping the wharves, harbors, and channels in order is called a tonnage duty. Vessels pay this duty in proportion to their carrying capacity. States may levy a tonnage duty for the purpose named under the revisory power of Congress, but not otherwise. [Art. I., sec. 10.]

7. FUGITIVE SLAVES. The third clause in the second section of Article IV. is not of much value now. It was inserted for the benefit of those states whose citizens held slaves. It was a prohibition upon the several states, restraining them from making any regulation, by which slaves, escaping from their masters, and fleeing into other states, should be made free. During the fierce discussions concerning the subject of slavery, in later years, several of the states did pass laws intended to obstruct the slaveholders in their efforts to recapture their fugitive slaves. However commendable those regulations were, viewed in the light of humane and moral ideas, they were plainly violations of the prohibitions of this section of the constitution. Now that slavery has been abolished in all the states, this prohibition has no farther use, and has no

farther interest to any one but to the student of history and of constitutional law.

8. CIVIL AND PERSONAL RIGHTS. The fourteenth amendment prohibits the states making or enforcing any law which shall abridge the privileges of citizens of the United States, or depriving any person of life, liberty, or property, or denying to any person within its jurisdiction the equal protection of the laws. This section was adopted in 1868, and was designed to remedy a serious evil. The war of 1861-65 was over, and the slaves formerly held had been emancipated. The white people of those states, however, did not confer upon the liberated blacks any of the rights of citizenship. Under the laws of those states, as they existed before the war, the blacks were not citizens nor entitled to any rights of citizens. But this amendment confers citizenship upon all such persons, white and black alike.

The states are then forbidden by law to abridge any of the rights of citizenship, or to permit any person to be deprived of life, liberty, or property, without due process of law, or to refuse the equal protection of the law to all persons within its borders. This prohibition is very broad and very strict, more so than is generally considered. When the state authorities know that the local authorities and the courts discriminate between citizens in the enforcement of the laws, — holding foreign-born citizens by a rule, stricter than, or different from, the rule by which native-born citizens are held, or punishing blacks for acts for which its white citizens are not punished, or inflicting upon the blacks heavier penalties than they visit upon whites for identical crimes, — that state manifestly violates this article of the constitution.

9. CIVIL RIGHTS. The United States courts have held that the first section of the fourteenth amendment did not confer upon the liberated blacks a right to vote, nor prohibit the states denying to them the right. To remedy the defect of the fourteenth amendment, the fifteenth amendment was adopted, providing that no state shall deny or abridge the right of its citizens to vote, on account of race, color, or previous condition of servitude.

A prohibition upon the power of a state to do any act, in the nature of things must be a prohibition upon the power of the citizens of that state to do that particular act. Whatever the state permits its citizens to do, it itself does, under the well-known rules of the common law and of reason. A state is but the organized form by which the people act; the people themselves really constitute the state; so that, whatever is done by the people in a state, must be held to be done by the state.

CHAPTER XXIV.

RELATIONS OF THE STATES. — Continued.

1. **Prohibitions upon the United States.** — In the treatment of the Bill of Rights, the meaning and extent of the prohibitions concerning *habeas corpus*, bills of attainder, and *ex post facto* laws have been shown. The right to the writ of *habeas corpus* can be suspended or denied only when in cases of rebellion or invasion the public safety requires it, and Congress is prohibited passing bills of the nature of the other two. The prohibition applies to the whole government, so far as it is applicable. [Art. I., sec. 9.]

2. In the first article of the constitution, it is provided that direct taxes shall be apportioned among the states in proportion to the number of their inhabitants, obtained as follows: Indians not taxed are not to be counted: all free persons are counted, and also three-fifths of all other persons. These "other persons" were slaves. In the constitutional convention, the delegates from the free states desired that the slaves should not be counted in making the apportionment of members of Congress and of taxes, and the delegates from the slave states wanted the slaves counted in full. The matter was compromised by counting a slave as three-fifths of a person, for both purposes. Since the liberation of the slaves, the phrase, "three-fifths of all other persons," has no force. A direct tax is a tax levied upon property or upon an individual; if levied

upon an individual, it is called a capitation tax. The "other persons" referred to in this section of the constitution were years ago made citizens, and their rights as such were fully recognized as far as changes in the fundamental law and in legislation could effect it. This clause is in effect obsolete, and possesses historical interest only. Direct taxes have been very rarely apportioned; Congress has the power to levy them, and the taxing power is the most essential and vital that any government has. The Confederation failed mainly through lack of power to collect money and pay its debts.

3. It has already been shown that Congress is forbidden to levy or collect any export duty or to give any preference to the ports of any state in its regulation of trade, domestic or foreign. [Art. I., sec. 9.]

4. No money can be drawn from the treasury of the United States except in consequence of an appropriation made by law. The money for the expenses of the government, regular and extraordinary, is appropriated by Congress in a general law. The amount to be expended by each department, and sometimes by each officer of a department, and the amounts for special objects, are named in the law. No department and no officer, not even the President, can use any money for any purpose not specified in the law; and cannot use any more money for any purpose than the law names. This appropriation of money is a legislative act, is the making of a law; it belongs to Congress as the immediate representatives of the people. This guard upon the treasury is derived from the custom of England, in which all money for the government's use must be determined by the House of Commons. [Art. I., sec. 9.]

5. No title of nobility can be granted by the United States, and we have already seen that the same prohibition rests upon the states (page 194). It is further provided that no person holding an office of profit or trust under the United States shall receive any present, emolument, office, or title of any kind from any foreign king, prince, or government. This last provision is unusual in the laws of nations. But the people of the United States are emigrants, or descendants of emigrants, from foreign nations. The history of this country shows that immigrants here retain, as a rule, a feeling of friendliness for the customs, institutions, and laws of their native land, even if they do not, as many of them do, have a friendliness for the government which they left. All these immigrants are entitled, as soon as naturalized, to vote, and to hold any office under this government but that of President and of Vice-President. At the time of the formation of the constitution there were few people in Europe friendly to the young republic, and not any nation friendly to the republican form of government, and now it does not appear that much, if any, change has taken place in the sentiment of Europe toward the United States. There was reason then, and is now, to regard the bestowment of favors upon officials of the United States, by foreign governments, with disfavor and suspicion. History shows that even native officials are frequently corrupted by foreign governments. There is reason why foreign governments might be more ready to bestow favors upon officials of the United States than upon those of other countries — for the reason that the form of government here is a protest against their form of governments, if not a menace to them.

The acceptance of presents begets friendliness toward the giver. The increase of friendliness toward foreign powers by officials of the United States would tend to weaken their attachment to the government which they were elected or appointed to serve, and thus make their official services less hearty and less valuable, if not positively harmful. Such presents may be in the nature of bribes, or of payment for treasonable acts. In any event, the constitution wisely prohibits all such acceptance of presents, unless by consent of Congress (page 116). [Art. I., sec. 9.]

6. The prohibition concerning the requirement of a religious test as a qualification for office has already been referred to. It is a general prohibition, and applies to citizens in their individual capacity, as well as to states and to the national government in their organized capacities. If a voter may make a religious opinion or religious profession of a candidate for office a test of fitness, there is no reason why the majority of the people of a state, or of the United States, may not unite to make the same test. While it may seem, sometimes, that a person's faith may have some influence in determining his character, certainly in expressing his character, such is hardly the sense of the best men and women. Character and fitness for the office should be determined by considerations other than those of religious faith or religious professions, not only by the government, but by the voters. [Art. VI.]

7. The prohibitions of the first, second, third, fourth, fifth, seventh, eighth, and ninth amendments of the constitution have already been considered. They are general in their nature; some of them applying to individuals as well as to the governments of the state and of the nation,

and most of them applying to the states as well as to the United States.

8. By the thirteenth amendment, slavery is forever prohibited within the United States. Slavery is not a natural condition of humanity, under the Anglo-Saxon and English laws, as inherited and applied by the people of the United States. As a consequence, slavery can exist only in pursuance of some law positively authorizing it. This section would prohibit the United States, and all the states and territories, passing any law permitting or sustaining slavery, and prohibit all officers of the state, and of the nation upholding slavery in any way, actively or passively. It goes further, and prohibits the individual resident sustaining any enslavement of a human being.

9. In the conduct of the war of 1861-65, the national government incurred an immense debt, — almost \$2,700,000,000, — besides vast obligations for bounties and pensions. By the terms of the fourteenth amendment, section four, this debt and these obligations cannot be repudiated by the government nor by the people. It is a pledge to the world that the debt and obligations will be met promptly and cheerfully. On the other hand, the other party to the war incurred large debts and liabilities. In courts of law, the losing party usually has to pay the costs made by the successful party. After war between nations, it is not unusual for the nation beaten to pay a large sum toward the expenses of the war of the conquering nation. It would be out of the question for the victorious party or nation to pay the expenses of the losing party or nation.

The slaves were emancipated as a war-measure, to aid in suppressing the civil war. The President and Congress considered such emancipation a necessity. Such being the

case, it would not be right for the people to pay for the loss of such slaves.

10. By the fifteenth amendment, the United States is prohibited denying to any citizen the right to vote, or abridging that right, on account of the race, color, or previous condition of servitude of the voter. The scope and extent of this prohibition have been considered already, and they need not be repeated (page 196).

CHAPTER XXV. —

RELATIONS OF THE STATES. — Continued.

1. Constitutional Commands. — The people, who elect the officers and who have to pay the taxes, have a right to know how their servants, the officers, spend the public money. Hence, the constitution commands that a regular statement and account of receipts and expenditures of all public money shall be published from time to time. The statement issued by the government is seldom in detail, and it thus gives but little practical information to the people. But the laws are regularly published, and they give more specific information about the government's business. In addition to this, the books of the government are necessarily public, and all proper persons have a right to examine them. Besides, the newspapers usually print information about governmental financial affairs, in considerable detail. Hence, the people generally know all that they care to know about the receipt and expenditure of the public money. This publicity is a proper and efficient safeguard against unwise expenditures, as well as against misappropriation. [Art. I., sec. 9.]

2. The courts and officers of each state are directed to give full faith and credit to all the public acts and records and judicial proceedings of every other state. The official action of public officers, and the proceedings of courts, are considered, in the state where made, to state facts as they exist, and to be regular and proper, until the contrary is

shown. This command means that they shall be so considered in other states. Thus, a judgment rendered in one state must be as valid in another state as in the state where rendered, and, in order to enforce it, suit does not have to be brought upon the original cause of action. In like manner, the acts of other public officers must be recognized. Under this provision of the constitution, Congress has enacted a law describing and prescribing the method by which these public acts, records, and proceedings of one state may be proved for use in another state. The method is very simple, by a mere copy certified to be correct by the officer having the record or proceedings in charge. [Art. IV., sec. 1.]

3. We have already considered the prohibition upon the states, wherein they are forbidden to abridge any of the privileges or immunities of citizens of the United States. A privilege is some favor granted; an immunity is some protection afforded. This amendment, in effect, supercedes, as it clearly extends and strengthens, the first clause of section two, Article IV., which provides that the citizens of each state shall be entitled to all the privileges or immunities of citizens of the several states. A citizen of a state, when he goes into another state, is entitled, under this clause, to all the civil rights of resident citizens. He may buy, sell, trade, engage in any business, and may appeal to the courts for the enforcement or protection of his rights. This clause does not guaranty the right to vote, or to hold office, as these are political rights, although the words of the clause seem to cover them. [Art. IV., sec. 1: 14th amendment, sec. 1, and 15th amendment.]

4. The nature of our form of government renders communication between the states very easy — so easy that

criminals find ready refuge in another state from the officers of the one in which the crime is committed. This would be a very serious evil if permitted. Accordingly, the constitution provides that persons charged in one state, with treason, felony, or other crime, and who shall flee into another state, shall be delivered up, on demand, to the authorities of the state from which he fled. This provision is so reasonable that all the states have laws regulating the method of such delivery, the amount of proof of the crime required to accompany the demand, and the details by which the demand is to be made and executed. A person can be tried for a crime in the state or district only in which the crime was committed, both by the common law and by the law of all the states; hence, the return of the fugitive to the place of the commission of the crime is necessary for a legal trial. [Art. IV., sec. 2.]

5. In the United States, in marked contrast with other nations, the government is a public affair, a *res publica*. In most other nations, a class, or a few classes, only, of the people participate in the government. All others are subjects of the government, but can take no part in its administration. Here, generally, male citizens twenty-one years of age may vote and hold office. Here, the government is interesting to all, whether they are voters or not. This form of government under which the citizens are voters and may be officers, in which all have an interest, in which they elect the officers of the government and are represented in the legislative department, is called a republican form. The constitution guaranties such a form of government to each state. Even if a majority of the people of a state desires to abolish the republican form

and to adopt some other, the constitution forbids such change. The nation, by its constitution, is committed to this popular and liberal form, and will not permit any state to adopt any other. [Art. IV., sec. 4.]

6. The United States is under obligations to protect each state against invasion. The right to raise and maintain armies and navies was relinquished by each state upon its ratification of the constitution, and is denied by the constitution to the states that have been admitted since. This right was reserved to the United States. So the states having no means of protecting themselves against invasion, it is proper that the nation should assume the duty. [Art. IV., sec. 4.]

7. Sometimes disobedience to the laws is so strong as to defy all the power of the police force of a state, and even of its militia. Inasmuch as the police and the militia are composed of citizens, a widespread disobedience of law might include large proportions of those two bodies. In such case, the power of the state to enforce its laws would be very much weakened. Besides, it is usually a work of days to call the militia-men from their usual pursuits, for their organization into an armed force. In such cases, when delays are dangerous, the general government is directed to protect the state against domestic violence. In order to obtain this protection from the national government, the legislature must ask it by a formal vote. If the legislature is not in session, and if the need is too urgent to await the assemblage of that body, the governor of the state may make the demand. As the United States keeps a standing army, though small, it can generally furnish help upon short notice. [Art. IV., sec. 4.]

8. While the states were under the compact known as the Articles of Confederation, Congress had borrowed money, but it lacked the power to collect funds to repay it. It might ask for money from the states, but if they did not respond, there was no power to compel them. The states also had war debts of their own, and it was difficult to raise money. The constitution provided that those debts should be as valid under the new government as they were under the old one. As the debts of the colonies, as well as those of the confederacy, were created in the common defense, for the benefit of all the colonies, the United States included them all in one list and paid them all. [Art. VI.]

CHAPTER XXVI.

AMENDMENTS TO THE CONSTITUTION.

A REFERENCE to Article V. will show that the framers of the constitution did not suppose that their work was perfect. They realized that there would be growth in the nation, in wealth, in population, in culture and civilization, in developed industry and commerce, and in the addition of new states. They knew that their ideas of government were not perfect, that the form of government which they had established was an experiment. They therefore properly provided for such changes in the framework of the government as the wisdom which time and experience bring should demand. Additional machinery might be needed, or changes desired in the machinery which they had provided. They were in sympathy with the statement in the Declaration of Independence, that "it is the right of the people to alter or to abolish" their form of government, "and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness." There are two methods provided for making amendments to the constitution.

1. At any time Congress may propose amendments to the constitution. To do this, each house must pass a joint resolution by a vote of two-thirds of its members. The joint resolution is passed in the same manner and by

the same process and solemnity required in the passage of a bill, and it must be signed by the President also. A copy of the proposed amendment is then sent, by the Secretary of State, to the governor of each state, with the proper certificate and statement. At the first session of the legislature of each state, after its receipt by the governor, it is sent to the legislature for action. If the legislature approves the proposed amendment, it ratifies the same, in the same way that it passes a bill, by a majority vote of each house. When the legislatures of three-fourths of all the states have ratified such proposed amendment, it becomes a part of the constitution.

Instead of sending the proposed amendment to the legislature of the states for ratification, Congress may provide for a ratification by conventions of the states, elected by the people. No amendment has been ratified yet in that manner, but the constitution provides for it. In case Congress should decide upon that method of ratification, Congress can provide the machinery for such conventions, or it can delegate to the states the duty to provide for the conventions. Three-fourths of the states must ratify by convention as well as by legislature, in order to give it effect.

2. The other method for amending the constitution is by convention. By this method, the states take the initiative. When the legislatures of two-thirds of the states shall make application to Congress for a convention to revise the constitution, Congress passes a bill calling a convention for the purpose named. The constitution does not state what shall be the basis of representation in such convention, but justice would require that each state should have representation in proportion to its population, — or in proportion to its representation in the two houses

of Congress. The bill would naturally provide the time and manner of election, the time and place of meeting, and all the other details needed. Such convention would be at liberty to propose any amendments that it could agree upon, or to propose an entirely new constitution. After such convention should adjourn, the proposed amendments, or proposed new constitution, would be sent to the state legislatures, or to conventions of the states, in the manner described in the paragraph above. A ratification of such action of the convention by three-fourths of all the states is necessary to amend the constitution by that method, as well as by the other.

3. It will be seen that there is some limitation upon the power to amend. In another part of the constitution power had been denied to Congress to prohibit the slave trade prior to the year 1808. Here the same instrument prohibits any amendment that shall recall that prohibition prior to the date named. The other section referred to, which could not be changed before 1808, is the one relating to the levy of a capitation tax. Now that the date has passed, the slave trade has been abolished and prohibited by law, and practically so by later amendments to the constitution. For if slavery is forbidden in the United States, there can be no slave trade here. The change in the basis of levying a capitation tax can now be made if desirable.

4. One feature of the constitution cannot be changed without the ratification of every state in the Union,—that feature is the equality of states in the Senate of the United States. Thus the equality of the states in the Senate is left with each state, and until all agree to abolish it, it must continue.

THE CIVIL SERVICE.



IN March, 1871, an act was passed by Congress enabling the President to take proper measures to ascertain the qualifications of candidates for positions in the various departments of the government service. A commission was established and rules were adopted for its regulation. Under its direction and in conformity with its rules, which must have the endorsement of the President, candidates are examined as to character, intelligence, and general ability to fill the places to which they aspire.

The law has been administered with varying success, at one time becoming a dead letter through the failure of Congress to make appropriations to carry out its provisions, although President Grant stated in an annual message that under its operation "persons of superior character and capacity" had entered the service, and "that they had developed more energy in the discharge of duty."

But the law was in advance of public opinion at that time. Later the national conventions of both political parties endorsed "civil service reform," and Congress has made appropriations to sustain the work of the commission in carrying out the purpose of the law.

These are some of the abuses which it is claimed existed previous to the passage of this enactment, and which flourish when it is in abeyance: the offices of the government are treated as the spoils of a victorious party, not as a

trust to be administered for the public good; party usefulness, rather than character, ability, and integrity, is made the test for appointment; faithful and efficient men are removed without cause to make place for party workers; devotion to a party leader is accepted in lieu of strict attention to public duties; offices are multiplied in order to make provision for political favorites; and assessments are levied upon these offices to be used for party purposes, thus making the national treasury and the taxes paid in common by all, more or less contributory to the perpetuation in power of one party and one set of men and their dependents.

This is the indictment of what is called "the spoils system." It is claimed on the other hand that this record of abuses is exaggerated, and exists, if at all, in but a limited degree; that in a government like ours, government by a party is a necessity; that it is pre-eminently for the interest of the party in power to prevent such abuses, or to reduce them to a minimum; that the weight of party responsibility which rests upon them is a sufficient and adequate motive to secure efficient, competent, and honest men for every administrative department; and that elections, frequent in occurrence, when all public questions are or may be more or less directly passed upon by the whole body of people, through their votes for candidates for office, act as a stimulus to honest administration, a safeguard against abuses, and an incentive to make only such appointments as will bear the closest scrutiny.

The aim of the civil service enactment is that appointments shall be made from *merit* only; that the way shall be open equally to all men and women having the proper qualifications; that personal merit and not political sub-

serviency shall be the test; that fitness ascertained by adequate and impartial means shall be the door through which all alike must enter; that the tenure shall be sure to proved competency; and that promotion from lower to higher grades follows by the same means.

There are about one hundred thousand offices in the federal service filled by appointment, and there is a much greater number under the state and city governments. Some of the states have a law similar in its aim to the federal law. Its friends claim that under its operation there is great gain both in efficiency and economy of administration.

In the application of this law either to national or local governments it is not intended by its promoters that its rules should apply to the heads of departments, or to any one occupying a representative position, or associated with an administration in confidential relations, but only to the great clerical and active working force of subordinate officials.

APPENDIX.



As has already been stated, the first Continental Congress, which assembled at Philadelphia September 5, 1774, adopted a Declaration of Rights. The following is the document, as finally agreed upon by the Congress, October 14, 1774.

I.

DECLARATION OF RIGHTS.

WHEREAS, since the close of the last war, the British parliament claiming a power of right, to bind the people of America by statutes in all cases whatsoever, hath, in some acts, expressly imposed taxes on them, and in others, under various pretences, but in fact for the purpose of raising a revenue, hath imposed rates and duties payable in these colonies, established a board of commissioners, with unconstitutional powers, and extended the jurisdiction of courts of admiralty, not only for collecting the said duties, but for the trial of causes merely arising within the body of a county :

And whereas, in consequence of other statutes, judges, who before held only estates at will in their offices, have been made dependent on the crown alone for their salaries, and standing armies kept in times of peace : And whereas it has lately been resolved in parliament, that by force of a statute, made in the thirty-fifth year of the reign of king Henry the eighth, colonists may be transported to England, and tried there upon accusations for treasons, and misprisions, or concealments of treasons

committed in the colonies, and by a late statute, such trials have been directed in cases therein mentioned :

And whereas, in the last session of parliament, three statutes were made ; one, entitled an “ Act to discontinue, in such manner and for such time as are therein mentioned, the landing and discharging, lading, or shipping of goods, wares and merchandise, at the town, and within the harbour of Boston, in the province of Massachusetts-Bay, in North-America ; ” another, entitled “ An act for the better regulating the government of the province of Massachusetts-Bay in New-England ; ” and another, entitled “ An act for the impartial administration of justice, in the cases of persons questioned for any act done by them in the execution of the law, or for the suppression of riots and tumults, in the province of the Massachusetts-Bay, in New-England ; ” and another statute was then made, “ for making more effectual provision for the government of the province of Quebec, &c.” All which statutes are impolitic, unjust, and cruel, as well as unconstitutional, and most dangerous and destructive of American rights :

And whereas, assemblies have been frequently dissolved, contrary to the rights of the people, when they attempted to deliberate on grievances ; and their dutiful, humble, loyal, and reasonable petitions to the crown for redress, have been repeatedly treated with contempt, by his majesty’s ministers of state :

The good people of the several colonies of New-Hampshire, Massachusetts-Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, New-Castle, Kent, and Sussex, on Delaware, Maryland, Virginia, North-Carolina, and South-Carolina, justly alarmed at these arbitrary proceedings of parliament and administration, have severally elected, constituted, and appointed deputies to meet, and sit in General Congress, in the city of Philadelphia, in order to obtain such establishment, as that their religion, laws, and liberties, may not be subverted. Whereupon the deputies so

appointed being now assembled, in a full and free representation of these colonies, taking into their most serious consideration, the best means of attaining the ends aforesaid, do, in the first place, as Englishmen, their ancestors, in like cases have usually done, for affecting and vindicating their rights and liberties, DECLARE.

That the inhabitants of the English colonies in North-America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, have the following RIGHTS :

*Resolved, N. C. D.** 1. That they are entitled to life, liberty, and property, and they have never ceded to any sovereign power whatever, a right to dispose of either without their consent.

Resolved, N. C. D. 2. That our ancestors, who first settled these colonies, were at the time of their emigration from the mother country, entitled to all the rights, liberties, and immunities of free and natural-born subjects, within the realm of England.

Resolved, N. C. D. 3. That by such emigration they by no means forfeited, surrendered, or lost any of those rights, but that they were, and their descendants now are, entitled to the exercise and enjoyment of all such of them, as their local and other circumstances enable them to exercise and enjoy.

Resolved, 4. That the foundation of English liberty, and of all free government, is a right in the people to participate in their legislative council: and as the English colonists are not represented, and from their local and other circumstances, cannot properly be represented in the British parliament, they are entitled to a free and exclusive power of legislation in their several provincial legislatures, where their right of representation can alone be preserved, in all cases of taxation and internal

* An abbreviation for *nemine, contradicente*; that is, no one opposing or disagreeing.

polity, subject only to the negative of their sovereign, in such manner as has been heretofore used and accustomed. But, from the necessity of the case, and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British parliament, as are bona fide, restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members; excluding every idea of taxation internal or external, for raising a revenue on the subjects in America, without their consent.

Resolved, N. C. D. 5. That the respective colonies are entitled to the common law of England, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of that law.

Resolved, 6. That they are entitled to the benefit of such of the English statutes, as existed at the time of their colonization; and which they have, by experience, respectively found to be applicable to their several local and other circumstances.

Resolved, N. C. D. 7. That these, his majesty's colonies, are likewise entitled to all the immunities and privileges granted and confirmed to them by royal charter, or secured by their several codes of provincial laws.

Resolved, N. C. D. 8. That they have a right peaceably to assemble, consider of their grievances, and petition the king; and that all prosecutions, prohibitory proclamations, and commitments for the same, are illegal.

Resolved, N. C. D. 9. That the keeping a standing army in these colonies, in times of peace, without the consent of the legislature of that colony, in which such army is kept, is against law.

Resolved, N. C. D. 10. It is indispensably necessary to good government, and rendered essential by the English constitution, that the constituent branches of the legislature be

independent of each other; that, therefore, the exercise of legislative power in several colonies, by a council appointed, during pleasure, by the crown, is unconstitutional, dangerous and destructive to the freedom of American legislation.

All and each of which the aforesaid deputies, in behalf of themselves, and their constituents, do claim, demand, and insist on, as their indubitable rights and liberties; which cannot be legally taken from them, altered or abridged by any power whatever, without their own consent, by their representatives in their several provincial legislatures.

In the course of our inquiry, we find many infringements and violations of the foregoing rights, which from an ardent desire, that harmony and mutual intercourse of affection and interest may be restored, we pass over for the present, and proceed to state such acts and measures as have been adopted since the last war, which demonstrate a system formed to enslave America.

Resolved, N. C. D. That the following acts of parliament are infringements and violations of the rights of the colonists; and that the repeal of them is essentially necessary, in order to restore harmony between Great Britain and the American colonies, viz.

The several acts of 4 Geo. III. ch. 15, and ch. 34. — 5 Geo. III. ch. 25. — 6 Geo. III. ch. 52. — 7 Geo. III. ch. 41, and ch. 46. — 8 Geo. III. ch. 22, which impose duties for the purpose of raising a revenue in America, extend the power of the admiralty courts beyond their ancient limits, deprive the American subjects of trial by jury, authorize the judges' certificate to indemnify the prosecutor from damages, that he might otherwise be liable to, requiring oppressive security from a claimant of ships and goods seized, before he shall be allowed to defend his property, and are subversive of American rights.

Also 12 Geo. III. ch. 24, entitled "An act for the better securing his majesty's dock-yards, magazines, ships, ammu-

“ nition, and stores,” which declares a new offence in America, and deprives the American subject of a constitutional trial by jury of the vicinage, by authorizing the trial of any person, charged with the committing any offence described in the said act, out of the realm, to be indicted and tried for the same in any shire or county within the realm.

Also the three acts passed in the last session of parliament, for stopping the port and blocking up the harbour of Boston, for altering the charter and government of Massachusetts-Bay, and that which is entitled “ An act for the better administration of justice,” &c.

Also the act passed in the same session for establishing the Roman Catholic religion, in the province of Quebec, abolishing the equitable system of English laws, and erecting a tyranny there, to the great danger, (from so total a dissimilarity of religion, law and government) of the neighbouring British colonies, by the assistance of whose blood and treasure the said country was conquered from France.

Also the act passed in the same session, for the better providing suitable quarters for officers and soldiers in his majesty’s service, in North-America.

Also, that the keeping a standing army in several of these colonies in time of peace, without the consent of the legislature of that colony, in which such army is kept, is against law.

To these grievous acts and measures, Americans cannot submit, but in hopes their fellow subjects in Great-Britain will, on a revision of them, restore us to that state, in which both countries found happiness and prosperity, we have for the present, only resolved to pursue the following peaceable measures: 1. To enter into a non-importation, non-consumption, and non-exportation agreement or association. 2. To prepare an address to the people of Great-Britain, and a memorial to the inhabitants of British-America: and 3. To prepare a loyal address to his majesty, agreeable to resolutions already entered into.

II.

COPIES of the following Declaration were, by a resolution of Congress, sent to the several assemblies, conventions, and committees, or councils of safety, and to the several commanding officers of the continental troops; and it was also proclaimed in each of the United States, and at the head of the army.

THE DECLARATION OF INDEPENDENCE, ADOPTED BY CONGRESS JULY 4, 1776.

A DECLARATION BY THE REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN CONGRESS ASSEMBLED.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these, are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the

people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established, should not be changed for light and transient causes ; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world :

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his Governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained ; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature ; a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the State remaining, in the mean time, exposed to all the danger of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose, obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislature.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment, for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent :

For depriving us, in many cases, of the benefits of trial by jury :

For transporting us beyond seas to be tried for pretended offences :

For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies :

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the powers of our governments :

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrection amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction, of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for

redress, in the most humble terms : our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren.

We have warned them, from time to time, of attempts made by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the representatives of the UNITED STATES OF AMERICA, in GENERAL CONGRESS assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, *free and independent States* ; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain, is, and ought to be totally dissolved ; and that, as FREE AND INDEPENDENT STATES, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which INDEPENDENT STATES may of right do. And, for the support of this declaration, with a firm reliance on the protection of DIVINE PROVIDENCE, we mutually pledge to each other, our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members :

JOHN HANCOCK.

New Hampshire.

Josiah Bartlett,
William Whipple,
Matthew Thornton.

Massachusetts Bay.

Samuel Adams,
John Adams,
Robert Treat Paine,
Elbridge Gerry.

Rhode Island.

Stephen Hopkins,
William Ellery.

Pennsylvania.

Robert Morris,
Benjamin Rush,
Benjamin Franklin,
John Morton,
George Clymer,
James Smith,
George Taylor,
James Wilson,
George Ross.

Delaware.

Cæsar Rodney,
George Read,
Thomas M'Kean.

Maryland.

Samuel Chase,
William Paca,
Thomas Stone,
Charles Carroll, of Carrollton.

Connecticut.

Roger Sherman,
Samuel Huntington,
William Williams,
Oliver Wolcott.

New York.

William Floyd,
Philip Livingston,
Francis Lewis,
Lewis Morris.

New Jersey.

Richard Stockton,
John Witherspoon,
Francis Hopkinson,
John Hart,
Abraham Clark.

Virginia.

George Wythe,
Richard Henry Lee,
Thomas Jefferson,
Benjamin Harrison,
Thomas Nelson, jun.
Francis Lightfoot Lee,
Carter Braxton.

North Carolina.

William Hooper,
Joseph Hewes,
John Penn.

South Carolina.

Edward Rutledge,
Thomas Heyward, jun.
Thomas Lynch, jun.
Arthur Middleton.

Georgia.

Button Gwinnett,
Lyman Hall,
George Walton.

III.

ARTICLES OF CONFEDERATION AND PERPETUAL UNION
BETWEEN THE STATES.

To all to whom these presents shall come, we the undersigned Delegates of the States affixed to our names, send greeting:— Whereas the Delegates of the United States of America in Congress assembled did on the 15th day of November in the Year of our Lord 1777, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of New-Hampshire, Massachusetts-bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, in the words following, viz. :

Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts-bay, Rhode Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia.

ARTICLE I. The Stile of this confederacy shall be “The United States of America.”

ARTICLE II. Each state retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the united states, in congress assembled.

ARTICLE III. The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their Liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them,

on account of religion, sovereignty, trade, or any other pretence whatever.

ARTICLE IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this Union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from Justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restriction shall not extend so far as to prevent the removal of property imported into any state, to any other state of which the Owner is an inhabitant: provided also that no imposition, duties or restrictions shall be laid by any state, on the property of the united states, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any state, shall flee from Justice, and be found in any of the united states, he shall upon demand of the governor or executive power, of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts and judicial proceedings of the courts and magistrates of every other state.

ARTICLE V. For the more convenient management of the general interest of the united states, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the first Monday in November, in every year, with a power reserved to each state, to recal its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the Year.

No state shall be represented in congress by less than two, nor by more than seven members ; and no person shall be capable of being a delegate for more than three years in any term of six years ; nor shall any person, being a delegate, be capable of holding any office under the united states, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each state shall maintain its own delegates in any meeting of the states, and while they act as members of the committee of the states.

In determining questions in the united states, in congress assembled, each state shall have one vote.

Freedom of speech and debate in congress shall not be impeached or questioned in any Court, or place out of congress, and the members of congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on congress, except for treason, felony, or breach of the peace.

ARTICLE VI. No state without the Consent of the united states in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any King prince or state ; nor shall any person holding any office of profit or trust under the united states, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince, or foreign state ; nor shall the united states in congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation or alliance whatever between them, without the consent of the united states in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the united states in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any state, except such number only, as shall be deemed necessary by the united states in congress assembled, for the defence of such state, or its trade; nor shall any body of forces be kept up by any state, in time of peace, except such number only, as in the judgment of the united states, in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and have constantly ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No state shall engage in any war without the consent of the united states in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay, till the united states in congress assembled can be consulted: nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the united states in congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the united states in congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the united states in congress assembled shall determine otherwise.

ARTICLE VII. When land-forces are raised by any state for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

ARTICLE VIII. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the united states in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any Person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the united states in congress assembled, shall from time to time, direct and appoint. The taxes for paying that proportion shall be paid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the united states in congress assembled.

ARTICLE IX. The united states in congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in cases mentioned in the 6th article — of sending and receiving ambassadors — entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever — of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the united states shall be divided or appropriated — of granting let-

ters of marque and reprisal in times of peace — appointing courts for trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts.

The united states in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, congress shall name three persons out of each of the united states, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as congress shall direct, shall in the presence of congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing;

and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the state, where the cause shall be tried, "well and truly to hear and determine the manner in question, according to the best of his judgment, without favour, affection or hope of reward:" provided also that no state shall be deprived of territory for the benefit of the united states.

All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions as they may respect such lands, and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the congress of the united states, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The united states in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states — fixing the standard of weights and measures throughout the United States — regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated — establishing or regulat-

ing post-offices from one state to another, throughout all the united states, and exacting such postage on the papers passing thro' the same as may be requisite to defray the expenses of the said office — appointing all officers of the land forces, in the service of the united states, excepting regimental officers — appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the united states — making rules for the government and regulation of the said land and naval forces, and directing their operations.

The united states in congress assembled shall have authority to appoint a committee, to sit in the recess of congress, to be denominated “A Committee of the States,” and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states under their direction — to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of Money to be raised for the service of the united states, and to appropriate and apply the same for defraying the public expenses — to borrow money, or emit bills on the credit of the united states, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted, — to build and equip a navy — to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men and cloath, arm and equip them in a soldier like manner, at the expense of the united states; and the officers and men so cloathed, armed and equipped shall march to the place appointed, and within the time agreed on by the united states in congress assembled: But if the united states in congress assembled shall, on consideration or circumstances judge proper that

any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, cloathed, armed and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, cloath, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so cloathed, armed and equipped, shall march to the place appointed, and within the time agreed on by the united states in congress assembled.

The united states in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the united states, or any of them, nor emit bills, nor borrow money on the credit of the united states, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine states assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the united states in congress assembled.

The Congress of the united states shall have power to adjourn to any time within the year, and to any place within the united states, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the Journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the Journal, when it is desired by any delegate; and the delegates of a state, or any

of them, at his or their request shall be furnished with a transcript of the said Journal, except such parts as are above excepted, to lay before the legislatures of the several states.

ARTICLE X. The committee of the states, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the united states in congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the united states assembled is requisite.

ARTICLE XI. Canada acceding to this confederation, and joining in the measures of the united states, shall be admitted into, and entitled to all the advantages of this union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

ARTICLE XII. All bills of credit emitted, monies borrowed and debts contracted by, or under the authority of congress, before the assembling of the united states, in pursuance of the present confederation, shall be deemed and considered as a charge against the united states, for payment and satisfaction whereof the said united states, and the public faith are hereby solemnly pledged.

ARTICLE XIII. Every state shall abide by the determinations of the united states in congress assembled, on all questions which by this confederation is submitted to them. And the Articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united states, and be afterwards confirmed by the legislatures of every state.

And Whereas it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union. Know Ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the united states in congress assembled, on all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the state of Pennsylvania the 9th day of July in the Year of our Lord, 1778, and in the 3d year of the Independence of America.

Josiah Bartlett,	John Wentworth, jun.	} On the part and behalf of the state of New Hampshire.
	August 8th, 1778,	
John Hancock,	Francis Dana,	} On the part and behalf of the state of Massachusetts-Bay.
Samuel Adams,	James Lovell,	
Elbridge Gerry,	Samuel Holton,	
William Ellery,	John Collins,	} On the part and behalf of the state of Rhode-Island and Providence Plantations.
Henry Marchant,		
Roger Sherman,	Titus Hosmer,	} On the part and behalf of the state of Connecticut.
Samuel Huntington,	Andrew Adam,	
Oliver Wolcott,		
Jas Duane,	William Duer,	} On the part and behalf of the state of New-York.
Fras Lewis,	Gouver Morris,	
Jn ^o Witherspoon,	Nath ^l Seudder,	} On the part and behalf of the state of New-Jersey, Novem- ber 26th, 1778.
Rob ^t Morris,	William Clingan,	} On the part and behalf of the state of Pennsylvania.
Daniel Roberdeau,	Joseph Reed,	
Jona Bayard Smith,	22d July, 1778,	

Tho. McKean, Feb. 12, 1779,	Nicholas Van Dyke,	}	On the part and behalf of the state of Delaware.
John Dickinson, May 5, 1779,			
John Hanson,	Daniel Carroll,	}	On the part and behalf of the state of Maryland.
March 1st, 1781,	March 1st, 1781,		
Richard Henry Lee,	Jn ^o Harvie,	}	On the part and behalf of the state of Virginia.
John Banister,	Francis Lightfoot Lee,		
Thomas Adams,			
John Penn,	Corns Harnett,	}	On the part and behalf of the state of North Carolina.
July 21st, 1778,	Jn ^o Williams,		
Henry Laurens,	Richd Hutson,	}	On the part and behalf of the state of South Carolina.
William Henry Drayton,	Thos. Heyward, jun.		
Jn ^o Matthews,			
Jn ^o Walton,	Edw ^d Telfair,	}	On the part and behalf of the state of Georgia.
24th July, 1778,	Edw ^d Langworthy,		

THE CONSTITUTION OF THE UNITED STATES OF AMERICA.



WE the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE. I.

SECTION. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION. 2. The House of Representatives shall be composed of Members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No person shall be a Representative who shall not have attained to the Age of twenty five years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined

[NOTE. — In reprinting the constitution here, the spelling, punctuation, and capitalization of the original have been preserved.]

by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other officers; and shall have the sole Power of Impeachment.

SECTION. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third class at the Expiration of the sixth Year, so that one third may be chosen every second Year: and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and Disqualification to hold and enjoy any Office of honour, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION. 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION. 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business: but a smaller

Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION. 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION. 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representa-

tives and the Senate, shall, before it become a Law, be presented to the President of the United States ; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like Manner as if he had signed it, unless the Congress by their adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States ; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION. 8. The Congress shall have Power

To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States ; but all Duties, Imposts and Excises shall be uniform throughout the United States ;

To borrow Money on the credit of the United States ;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes ;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States ;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures ;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States ;

To establish Post Offices and post Roads ;

To promote the progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries ;

To constitute Tribunals inferior to the supreme Court ;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations ;

To declare War, grant letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water ;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years ;

To provide and maintain a Navy ;

To make Rules for the Government and Regulation of the land and naval Forces ;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions ;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the Discipline prescribed by Congress ;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the

Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, Dock-Yards, and other needful Buildings : — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION. 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or Duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another : nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law ; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States : And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION. 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of Delay.

ARTICLE. II.

SECTION. 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

¹The Electors shall meet in their respective States, and vote

¹ This clause has been superseded by the 12th amendment.

by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority and have an equal number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; a Quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation : —

“ I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

SECTION. 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States,

whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the officers of the United States.

SECTION. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE. III.

SECTION. 1. The Judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation which shall not be diminished during their Continuance in Office.

SECTION. 2. The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be

made, under their Authority ; — to all Cases affecting Ambassadors, other public Ministers and Consuls ; — to all Cases of admiralty and maritime Jurisdiction ; — to Controversies to which the United States shall be a Party ; — to Controversies between two or more States ; — between a State and Citizens of another State ; — between Citizens of different States. — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury ; and such Trial shall be held in the State where the said Crimes shall have been committed ; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION. 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE. IV.

SECTION. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of

every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof.

SECTION. 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

SECTION. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion, and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitu-

tion, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year one thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

ARTICLE. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. **In Witness** whereof We have hereunto subscribed our Names,

G^o WASHINGTON —

Presidt and deputy from Virginia

NEW HAMPSHIRE.

JOHN LANGDON

NICHOLAS GILMAN

MASSACHUSETTS.

NATHANIEL GORHAM

RUFUS KING

CONNECTICUT.

WM SAML JOHNSON

ROGER SHERMAN

NEW YORK.

ALEXANDER HAMILTON

NEW JERSEY.

WIL LIVINGSTON

DAVID BREARLEY

WM PATERSON

JONA DAYTON

PENNSYLVANIA.

B FRANKLIN

THOMAS MIFFLIN

ROBT MORRIS

GEO CLYMER

THO FITZSIMONS

JARED INGERSOLL

JAMES WILSON

GOUV MORRIS

DELAWARE.

GEO READ

GUNNING BEDFORD, Jun'r

JOHN DICKINSON

RICHARD BASSETT

JACO BROOM

MARYLAND.

JAMES M'HENRY

DAN OF ST THOS JENIFER

DANL CARROLL

VIRGINIA.

JOHN BLAIR

JAMES MADISON, Jr

NORTH CAROLINA.

WM BLOUNT

RICH'D DOBBS SPAIGHT

HU WILLIAMSON

SOUTH CAROLINA.

J RUTLEDGE

CHARLES COTESWORTH PINCKNEY

CHARLES PINCKNEY

PIERCE BUTLER

GEORGIA.

WILLIAM FEW

ABR BALDWIN

Attest

WILLIAM JACKSON, *Secretary.*ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE
CONSTITUTION OF THE UNITED STATES OF AMERICA,*Proposed by Congress, and ratified by the Legislatures of the
several States, pursuant to the fifth article of the original
Constitution.*

(ARTICLE I.)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

(ARTICLE II.)

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

(ARTICLE III.)

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

(ARTICLE IV.)

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

(ARTICLE V.)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

(ARTICLE VI.)

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have Compulsory process for obtaining Witnesses in his favour, and to have the Assistance of Counsel for his defence.

(ARTICLE VII.)

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

(ARTICLE VIII.)

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(ARTICLE IX.)

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

(ARTICLE X.)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

(ARTICLE XI.)

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

(ARTICLE XII.)

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves: they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President,

and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; — The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. — The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

(ARTICLE XIII.)

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been

duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECT. 2. Congress shall have power to enforce this article by appropriate legislation.

(ARTICLE XIV.)

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SECT. 2. Representatives shall be apportioned among the several States, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crimes, the basis of representation shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens, twenty-one years of age, in such State.

SECT. 3. No person shall be a senator or representative in Congress, or elector of president or vice-president, or hold any office, civil or military, under the United States or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of

any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house remove such disability.

SECT. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECT. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

(ARTICLE XV.)

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

SECT. 2. The Congress shall have power to enforce this article by appropriate legislation.

INDEX.

INDEX TO THE STATES.

- | | |
|---|--|
| Agency, 70. | Marriage, 48. |
| Aliens, 45. | Militia, 54. |
| Asylums, 55. | Mortgages, 64. |
| Borough, 44. | Notes, 69. |
| Canals, 75. | Officers of city, 43; of county, 43; of state, 39. |
| Children and parents, 50. | Orphan's courts, 42. |
| Cities and officers, 43. | Parents and children, 50. |
| Common carriers, 73. | Partnership, 62. |
| Contracts, 59. | Prisons, 55. |
| Counties and officers, 43. | Probate courts, 42. |
| Courts, 42. | Promissory notes, 69. |
| Criminals, 55. | Railroads, 73. |
| Deeds, 67. | Receipts, 69. |
| Education, 47; county superintendent of, 43; state superintendent of, 47. | Sales, 67. |
| Express companies, 74. | States, division of, 42; officers of, 39; organization of, 39. |
| Governor, 39. | Superintendent of public instruction, 43, 44. |
| Habeas corpus, writ of, 57. | Surrogates' court, 42. |
| Insurance, 71. | Taxes, 51. |
| Interest, 70. | Tenant, 66. |
| Judiciary, 41. | Towns, 44. |
| Juries, grand and petit, 52; trial by, 53. | Trial by jury, 53. |
| Laws, sources of, 46. | Villages, 44. |
| Leases, 66. | Voters, 45. |
| Legislature, 41. | Wills, 58. |
| Liens, 65. | |

INDEX TO THE NATIONAL GOVERNMENT.

- | | |
|--|---|
| Academy, military, 147; naval, 150. | Administrative Department, 82, 123. |
| Account of receipts and expenditures of public funds to be published, 204. | Agriculture, commissioner of, 152. |
| Adjournment of Congress, 97. | Alliance of states prohibited, 188. |
| Adjutant-General, 144, 146. | Ambassadors to and from other governments, 130. |

- Amendments, to bills, 95; to constitution, 209.
- Andros, Governor, 7, 8, 9, 11, 13.
- Appointment of members of Congress to certain offices forbidden, 121.
- Appropriations of money, 164; for the army, 118.
- Archives, bureau of, 131.
- Aristocracy, defined, 78.
- Arms, right of the people to keep, guaranteed, 29.
- Army, the, 145; officers of, 145; appropriations for, 118.
- Articles of Confederation, 19; weakness of, 21, 22, 187.
- Assemblage of the people, right of, 29.
- Attainder, bill of, 26, 118, 198.
- Attorney-General, 166, 176; assistants, 166, 176.
- Auditors of the Treasury, 135.
- Bail, admitted to, 35.
- Bankruptcy, 107.
- Banks, national, 142; taxed, 141.
- Base line, 158.
- Bill of attainder, 26, 118, 198; of credit, 192; of rights, 25.
- Bills, 92; for raising revenue, 92.
- Borrow money, power of Congress to, 102.
- Boston, founded, 6.
- Cabinet of the President, 129.
- California, discovered, 2.
- Carolinas, the, discovered, 1; settled, 11.
- Cash, public lands sold for, 159.
- Census, bureau of the, 153.
- Chart of base line and principal meridian, 158.
- Civil government, 77; polity, 77; rights, 196, 197; state, 39; service, 212.
- Coal-lands, 160.
- Coast-survey, 136.
- Colonial conference, 16; Congresses, 17, 18, 20.
- Commerce, foreign, 103; interstate, 105, 171.
- Commissioner of Agriculture, 152; Customs, 138; Education, 153; Indian Affairs, 152; Interstate Commerce, 171; Patents, 153; Pensions, 152; Public Lands, 152; Revenue, special, 134.
- Committees of each house of Congress, 88, 91.
- Common defense, 102.
- Communism tried at Plymouth, 6; in Virginia, 4.
- Comptroller of the Currency, 135.
- Confederation, Articles of, adopted, 19, 21; weakness of, 21, 22, 187; of the New England colonies, 7, 9, 11, 15.
- Congress, adjournment, 97, 128; committees, 88, 91; impeachment, 98; journal, 90; members of, 85; duties of, 88; organization, 87; powers of, 99; quorum, 88; restrictions upon powers, 118; rights of each house, 89; rules, 91; sessions, 87.
- Connecticut, settled, 8.
- Constitution, 25; adopted and ratified, 19; by whom framed, 21; imperfect, 209; objects of, 22; preamble of, 21.
- Constitutional amendments, 209; commands, 204.
- Continental Congresses, 18-20.
- Contracts, laws impairing, 193.
- Consuls, 130, 181.
- Copyright, 109, 169.
- Coronado, explorations of, 2.
- Counterfeiting, Congress may punish, 108.
- Courts, circuit, 174; of claims, 176; district, 175; of District of Columbia, 175; supreme, 174; of territories, 176; jurisdiction of, 179, 183; officers of, 176; may be established by Congress, 109.
- Coxe, Daniel, counsels union of the colonies, 16.
- Currency, Comptroller of, 135.
- Customs revenue, 137.
- Dead-letter office, 164.
- Declaration, of Independence, 18, 36; of Rights, 17, 18.
- Delaware, settled, 11.
- Democratic form of government in Maryland, 9; in Massachusetts, 5; in Rhode Island, 10.

- Democracy, defined, 78.
 Departments of, the Interior, 129, 152 :
 Justice, 129, 166 : Navy, 129, 149 :
 Post Office, 129, 162 : State, 131, 132 :
 Treasury, 150, 154 : War, 129, 144.
 Desert-lands, 160.
 De Soto, explorations of, 2.
 District, courts, 175 ; of Columbia, 112.
 Diplomatic bureau, 130.
 Drake, Sir Francis, discoveries of, 2.
 Duties, 99, 100 : export, 119, 194.
 Electoral Count, 126.
 Education, bureau of, 119 : commis-
 sioner of, 153.
 Elective franchise, rights to, 37, 201.
 Election of members of Congress, 85,
 113 ; of President, 113, 124.
 Eminent domain, right of, 33.
 Excise duties and taxes, 99.
 Executive Department, 82, 123.
 Export duty, 119, 199.
 Ex post facto law, 26, 118, 193, 198.
 Florida, discovered, 1.
 Foreign commerce, 103.
 Foreign service of Post-Office Depart-
 ment, 163.
 Forms of civil government, 77.
 Franklin, Benjamin, 16 ; plans for
 union of the colonies, 17.
 Fugitive, criminals, 205, 206 : slaves,
 195.
 General welfare clause of the consti-
 tution, 102.
 General powers of Congress, 111 : of
 the President, 127.
 Georgia, settled, 13.
 Gorges and Mason, 7.
 Gosnold, attempts at settlement, 3.
 Government of the United States, 79 :
 division of powers, 80.
 Grand jury, 31, 178.
 Habeas corpus, writ of, 25, 198.
 Hamilton, Alexander, 139, 143.
 Homestead rights, 159, 161 : of sol-
 diers, 159.
 Hudson, Henry, discoveries, 8.
 Immediate delivery of letters, 164.
 Impairing contracts, 193.
 Impeachment, 98, 184, 185, 186.
 Impost duties, 99, 138, 139.
 Independence, declaration of, 18, 36.
 Indian affairs, bureau of, 152 : commis-
 sioner of, 152.
 Indians, commerce with, 106.
 Interior Department, 152.
 Internal revenue system, 140.
 Interstate commerce, 105, 171 : com-
 missioners of, 171.
 Introduction, historic, 1.
 Journal of each house of Congress, 90.
 Judges of courts appointed by the
 President, 175.
 Judicial Department, 82, 174.
 Jurisdiction of courts, 109, 174, 175,
 179, 183.
 Jury, grand, 178 ; right of trial by, 27,
 34.
 Justice, constitution formed to estab-
 lish, 23 : department of, 166.
 Kennebec river, settlement on, 3.
 Lands, public, 156.
 Law, due process of, 32.
 Laws, how passed, 92-97 : publication
 of, 97 : signed by the President, 96 :
 when to take effect, 97.
 Legislative Department, 81, 84 : dia-
 gram of, 84.
 Legislation, methods of, 92.
 Letters, dead, 130 ; registry of, 164.
 Liberty, constitution established to
 secure, 24.
 Light-house board, 142.
 Locke, John, his grand model of gov-
 ernment, 12.
 Maine, 3, 6, 114.
 Map, of section of public land, 157 : of
 townships of public land, 156.
 Maryland, 9.
 Massachusetts, 1, 3, 5, 114.
 Mayflower, written compact in, 5.
 Measures, regulated by Congress, 108.
 Mecklenberg, N. C., declared for inde-
 pendence, 18.
 Members of Congress, 85 : appointed
 to other offices, 112 : how elected, 86 :
 oath of office, 122 : privileges of, 86 :
 qualifications, 85 : salary, 121 : vacan-
 cies, how filled, 122.

- Methods of legislation, 92.
 Military Academy, 147.
 Militia of the states, 25, 116.
 Mineral lands, 160.
 Ministers to and from other governments, 130, 181.
 Mint, the, 142.
 Minutemen, organized, 18.
 Monarchy, defined, 78.
 Money, may be regulated by Congress, 108, 192.
 Money-order system, 163.
 Narragansett bay, visited, 1; settled, 10.
 National banks, system of, 142; taxation of, 141.
 Naturalization, 107, 168.
 Naval Academy, 150.
 Navigation, bureau of, 149.
 Navy Department, 149.
 Navy, the, 151; officers of, 151; vessels classified, 151.
 New England, visited, 1, 3; named, 3.
 New Hampshire, 7.
 New Jersey, 12.
 New states may be admitted by Congress, 114, 120.
 New York, 8, 13; bay, 1.
 Nobility, titles of, 116, 200.
 North Carolina, 1, 3, 11.
 Oath of office, of members of Congress, 122; of President, 126.
 Objects, of the constitution, 22; of taxation, 99, 101.
 Officers, of courts, 176; by whom appointed, 177; terms of service, 177.
 Organization, of Congress, 87; of the government, 20.
 Pardons and passports, bureau of, 133.
 Patents, 109, 153; commissioner of, 152.
 Penn, William, 13; plans for union of the colonies, 16.
 Pennsylvania, 13.
 Pensions, bureau of, 152; commissioner of, 152.
 Personal rights, 196.
 Petition, right of, 29.
 Piracy, punishment of, 110.
 Plymouth colony, 5.
 Postage, rates of, 165.
 Postal notes, 163.
 Post-office Department, 162.
 Post-offices and post-roads, may be established by Congress, 108.
 Powers, of Congress, 99; of the President, 123, 127; of the United States, division of, 80; reserved, 35; restrictions upon, 118.
 Preamble of the constitution, 21.
 Pre-emptions, of public lands, 159.
 Preferences to ports, Congress prohibited to give, 119.
 President, the, 124; approves or vetoes bills, 96; how elected, 124; general powers, 127; makes treaties, 127; oath of office, 127; powers, 128, 129; qualifications, 126; salary, 127.
 Press, freedom of, guaranteed, 29.
 Principal meridian, 158.
 Principles of civil government, 79.
 Private property for public use, 30.
 Presidential succession, 129.
 Privileges, of citizens, 27, 37, 196, 197; of members of Congress, 86.
 Prohibitions, upon Congress, 118, upon the states, 188; upon the United States, 198; of slavery, 113; of the slave-trade, 113, 211.
 Protections, to American industry, 99, 101; to private property, 30; of the states against invasion, 207.
 Public debts, 101, 202, 208; records, 114, 204.
 Public lands, 115, 152, 156; commissioner of, 152; sale of, 159.
 Punishment of counterfeiting, 108; of piracy, 110; of treason, 114.
 Qualifications of members of Congress, 85; of President, 126.
 Qualifications of voters in early Connecticut, 9; in Massachusetts, 7; in Pennsylvania, 13; in Rhode Island, 11.
 Quorum of each house of Congress, 88.
 Raleigh, Sir Walter, 2; city of, 3.

- Register of the Treasury, 136.
 Régulation, of commerce, 103; of measures, money, and weights, 108.
 Relations of the states, 187.
 Religious freedom, guarantied, 28, 29, 201; in Maryland, 10; in Rhode Island, 11.
 Reports of committees, 94; action upon, 95; effect of, 95.
 Representative bodies in the colonies: Connecticut, 9; Delaware, 11; Maryland, 9; Massachusetts, 5; New Hampshire, 7; New Jersey, 12, 13; New York, 8; North Carolina, 12; Pennsylvania, 13; Rhode Island, 10, 11; Virginia, 5.
 Republican form of government guarantied to each state, 206.
 Revenue system, 138; customs, 138; internal, 140.
 Rhode Island, 1, 10.
 Rights, Bill of, 24; civil and personal, 196, 197; Declaration of, 17, 18; of citizens of each state, 27, 37, 205; to assemble peaceably, 29; to keep and bear arms, 29; to jury trial, 27, 34; to speedy trial, 33; of each house of Congress, 89; reserved, 188.
 Rolls and archives, bureau of, 132.
 Rules of each house of Congress, 91.
 Salary of members of Congress, 121; of President, 127.
 Saline lands, 160.
 Santa Fe, founded, 2.
 Search warrants, 30.
 Secret sessions of Congress, 90.
 Section of public land, map of, 157.
 Signal corps, 145.
 Slaves, fugitive, 195.
 Slave-trade in the United States, beginnings of, 1, 2; Congress may abolish, 113; taxation of, 113.
 Slavery, prohibited, 113, 202.
 Smith, John, visits and names New England, 3.
 Smithsonian Institution, 170.
 Soldiers' homestead rights, 159.
 South Carolina, 1, 2, 12.
 Speaker, presiding officer of the House, 88; duties of, 88.
 State Department, 130.
 States, may not impose tariff duties, nor keep troops without consent of Congress, 116; new may be admitted, 120; consolidation and division of, 120; equality of in the Senate, 211; responsible for action of their citizens, 196, 197.
 Statistics, bureau of, 137.
 St. Augustine founded, 2.
 Survey of coast, 136.
 Tariff, 136, 139; effects of, 99, 101, 138, 139; states cannot impose, 116.
 Taxes, capitation, 99, 118; direct, 199; how levied, 118, 194, 199; income, 140; must be uniform, 101; objects of, 101; power to levy, 99; stamp, 140.
 Territorial courts, 176; jurisdiction of, 183.
 Testimony, accused not compelled to furnish, 32.
 Trade-marks, 154.
 Translators for, State Department, 133.
 Treason, defined, 114; may be punished, 120.
 Treasurer of the United States, 136.
 Treasury Department, 134.
 Treaties, made by President, 127; confirmed by Senate, 127.
 Timber-culture, lands obtained by, 160.
 Township of land, map of, 156.
 Trials, after acquitted, 31; by jury, 34; in impeachment, 185; in United States courts, 178; speedy, and where the crime was committed, 33.
 Union, more perfect, one object of the constitution, 22.
 United States, government of, 77.
 Unity of the colonies, plans for, 14, 16, 17; tendency towards, 14.
 Vacancies, in office of member of Congress, how filled, 122.
 Vermont, 114.
 Vice-President, the, 81, 84, 124, 125, 129.
 Virginia, 3, 4.

- | | |
|--------------------------------------|-----------------------------------|
| Vote, 37, 202; how member of Con- | Washington, George, 19, 139. |
| gress, 91. | Weights, may be regulated by Con- |
| War, Congress may declare, 111, 190; | gress, 108. |
| states cannot engage in, 190. | Williams, Roger, 10. |
| War Department, 144. | Yardley, governor of Virginia, 5. |

THE
STATE AND LOCAL
GOVERNMENT OF NEW YORK.

WITH THE
TEXT OF ITS CONSTITUTION.

BY
ORLANDO LEACH.

An Appendix to "Our Republic."



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THE STATE AND LOCAL GOVERNMENT OF NEW YORK.



THIS state is the first in population, but the nineteenth in area in square miles. It surpasses all the others in the extent of its manufacturing and commercial interests, while in the value of its agricultural products and live stock, it maintains a high rank.

Historically, it is also full of interest to the student. Before its occupation by white men it had been peopled by Indians, who afterward became known as the Five Nations. You have learned in your history that this was once a colony controlled by the Dutch, and afterward by the English. You have also studied with interest the narrative of the trials and hardships which the early settlers endured, and the perils they encountered in redeeming this territory from savagery and solitude, and in laying the foundations of the Empire State.

Many of the most exciting events of the war of the Revolution transpired in this territory. In the war of 1812 it was also the scene of many stirring and important events. During the late war it sent 438,000 soldiers to the field.

It is divided into sixty counties, and these again are subdivided into townships, which also embrace within their territory many incorporated villages and cities.

There are now (1888), thirty cities, the aggregate population of which is more than half that of the whole state.

A Constitution is a written instrument defining the fundamental principles upon which a state or other organized body of men have agreed for their government. It is also sometimes called the organic law. There have been three constitutions of the state, each nearly the same as its predecessor in its main features. The first was framed and adopted in 1777, the second in 1822, and the third in 1846. This one, with its amendments, is in force at the present time.

These several instruments were framed by the delegates chosen by the people, and were adopted by the people themselves. The Constitution makes provision for its own amendment by a convention, which may be called once in twenty years. Such convention for revision and amendment was ordered by a popular vote in 1866, and again in 1886, but the state authorities have so far (1888) failed to make provision for election of delegates, and to take other necessary steps for its being held.

The legal voters of the state may approve or disapprove of any or all acts done by their delegates in a constitutional convention. Politically, the people are the source of all power, and the fundamental law as laid down in the Constitution is of their creation. Legislation being less far-reaching in its effects, and the objects concerning which it is had being so many, the people confer upon their representatives in the different departments of government the power to give it full force and effect.

Beside this way of amending the Constitution, there is still another way provided. Such amendments may be

proposed in the Legislature, and if they receive the endorsement of both houses in two successive legislatures, and are then ratified by the people by a constitutional majority, they become a part of the fundamental law.

Individual Rights.—The Constitution very appropriately commences with a declaration of the rights of citizens, which it deems inalienable, and which have been contended for by freemen, and those struggling to be free, since the days of the Magna Charta. They were secured to us by our War of Independence.

The most important of these are: The right to—all the rights, privileges and immunities of citizenship; trial by jury; the privilege of the writ of *habeas corpus*; exemption from excessive bail or fines and cruel or unusual punishments, and from unreasonable search or seizure of person or property, or deprivation of life, liberty or property, without due process of law and freedom to produce witnesses; just compensation for all private property taken for public uses; free speech; a free press; and free assemblage peaceably for discussion, or to petition the government.

Voters.—Such persons are qualified to vote at all general elections as are male citizens of the age of twenty-one years. Such citizenship must have been for a period of ten days preceding an election, and the person must also have resided in the state for one year, the county four months, and thirty days in the election district where he may offer his vote. The several periods named must be those immediately preceding an election at which a vote is to be taken. Women may vote at school meetings, but at no other elections.

A person is said to "gain a residence" in the periods named. A student at a seminary does not gain a residence there; and a sailor upon the seas does not lose a residence, however long his absence. An alien cannot gain a residence, no matter how long he may live in a place or state. He must first become a citizen by renouncing fealty to any foreign power, and swearing allegiance to our government.

Residence must be continuous, yet travellers do not lose theirs by being away from home. A person is disqualified to vote if he has directly or indirectly offered another a valuable consideration for his vote, or if he has made a wager with him upon the result of any election, or is directly or indirectly interested in any bet that is pending upon its result. It is also as unlawful to hold out any inducement to withhold a vote as it is to induce one to vote in any particular way. Any person convicted of heinous crime is disqualified from voting, unless pardoned by the governor. Neither educational nor property qualifications are required. All elections must be by ballot, except that it may be provided by law otherwise, in case of some town officers.

In the cities of New York and Brooklyn all voters, in order to be properly qualified, must personally register their names at least ten days prior to any election. In other parts of the state they must also be registered, but such registry does not need to be renewed except in case of a change of residence.

Except in the cities above named, the time of electing city, village, and town officers is not the same as that of the annual state election, which occurs on the Tuesday after the first Monday in November. If a person's right

to vote is challenged, he may deposit his ballot on taking oaths required by law.

The polls are closed at sunset, when the votes must be counted at once by the inspectors of the election, a record made of the same and certified to by them, and then the ballots are destroyed. The candidate having the greatest number of votes for any office is declared elected. This is election by a *plurality*: it is not required that any one should have a *majority* of all the votes cast.

The Legislative power of the state is vested in one body, which is divided into two branches, called the Senate and Assembly. The former consists of thirty-two members elected for two years, and the latter of one hundred twenty-eight, elected annually. For the purposes of election the state is divided into Senate and Assembly districts,¹ each of which should respectively contain a nearly equal population, not including aliens. It is stipulated, however, that no county shall be divided in forming a senate district, unless it is entitled to two or more senators, and no township in the formation of an assembly district; in each case the territory must be convenient and contiguous.

Each county, except Hamilton, is entitled to at least one member of the Assembly. The boundaries of the several districts are liable to changes after each decennial enumeration, to correspond with changes in the population. Such readjustment was made following the census of 1875, but none has since been made, owing to the failure to comply with that provision of the Constitution requiring an enumeration once in ten years. The compen-

¹ For a list of these, see pages 95, 96.

sation of members is fixed at \$1500 per annum, with some small addition for travelling expenses in going and returning once for each session. The Legislature meets for its annual session on the first Tuesday in January.

It may meet in special session at any time upon call of the governor, but at such times it can legislate only upon those matters for which it was convened.

A member cannot accept any other office in the gift of the state, or from any city government, or from the government of the United States during his term. A citizen is not eligible to election, who within one hundred days previous to it has been a member of Congress, or a civil or military officer of the United States, or held office under any city government. His acceptance of any other appointment or election to office under any government would vacate his seat.

Each house is the judge of the returns and qualifications of its own members, and makes its own rules of order and procedure. A majority constitutes a quorum, and is necessary to the transaction of business. The Senate is presided over by the Lieutenant-Governor. Its other officers are of its own selection. The Assembly chooses all its officers, first electing one of its own members by ballot as presiding officer, who is called the Speaker; he appoints all the committees of this body. The Senate elects its committees.

The Clerk of the previous Assembly calls that body to order. His list of members is made from those having certificates regular in form on file in the office of the Secretary of State. His services are continued until his successor is elected. The clerk, sergeant-at-arms and other necessary officers are not members of the body they

serve. The Secretary of State usually administers the oath to the members.

All the proceedings of the Legislature are public, and each house keeps a journal which is published, except in any case the public welfare requires secrecy. In order that members may be fearless in discharge of public duty, words spoken in debate in either house cannot be called in question elsewhere.

No law can be enacted except by a bill, and any bill may originate in either house ; but to secure its passage, a majority of each house must be agreed upon its exact terms. The enacting clause of all bills is prescribed by the Constitution, and is in these words: *The people of the State of New York, represented in Senate and Assembly, do enact as follows:* Private or local bills must relate to a single subject only. For further restrictions upon this body in relation to the nature of the bills it may pass, see Constitution, pages 53, 54, 71. General laws which affect alike all individuals, associations, corporations, and communities, and not special enactments granting to any person or association any exclusive privilege, immunity or franchise, are either enjoined or encouraged by this instrument. Bills creating a public debt or charge, or which discharge or commute any claim or demand of the state, must be voted upon by taking the yeas and nays which shall be recorded upon the journals, and three-fifths of either house shall be necessary at such times to constitute a quorum. If a bill imposes or revives a tax, it must state explicitly the object to which the money is to be applied.

An important duty of the Legislature is the election of United States Senators. For method of procedure, see "Our Republic," page 86. By joint ballot also it elects

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Regents of the University, who are not *ex-officio* members. Certain state officials can only be appointed under approval of the Senate; and this body, in connection with the Court of Appeals, may sit as a court to try the governor, judges, or other high officials, if they are impeached by the Assembly for high crimes and misdemeanors.

To facilitate the transaction of business, each house has its appropriate committees, to which all bills are referred. Public hearings are often given to those who favor or oppose such bills. In this way the people reach and influence legislation most directly. See pages 92-97 of "Our Republic" for usual method of consideration and passage of bills.

The Executive power of the state is vested in a Governor and Lieutenant-Governor, who are elected by the people and hold office for three years from the first day of January following their election. The time for their election is the same as that of members of the Legislature, viz., the Tuesday after the first Monday in November. Any citizen of the United States, thirty years of age, and who has for five years preceding an election resided in the state, is eligible to either office. If there are several candidates, the ones having the largest number of votes are declared elected.

The Governor is Commander-in-chief of the militia, and of any naval force the state may have. It is his duty to give information to the Legislature concerning affairs affecting the welfare of the state, and to recommend such legislation as he thinks will promote the public good. It is also his duty to see that all the laws are faithfully and impartially executed. In cases of actual or threatened

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resistance to the civil authorities, of a nature too formidable for them to cope with, it would be his duty to call out the militia to assist them; or perhaps in an extreme case to take the preservation of public order wholly into the hands of the military power.

In him is vested the power to grant pardons, or commutations after conviction and sentence of a criminal, for all offences except treason and cases of impeachment. He must annually report all such cases, with the facts and his action, to the Legislature.

The Governor is also an important factor in all legislation, as he has the power to veto all acts passed by the Legislature which, in his judgment, do not tend to promote the public good. These measures may, however, be passed, notwithstanding his objections, if two-thirds of all the members of each house approve of them and reaffirm them by a yea and nay vote. They then become laws the same as if they had received the approval of the Governor.

The Governor has ten days, Sundays excepted, in which to consider all bills presented him for his signature. If a bill is not returned by him within that time it becomes a law the same as if he had approved it, unless the Legislature, by its adjournment, prevents such return. Such bills as are in the hands of the Governor at the adjournment of the Legislature fail to become laws, unless he shall approve them within thirty days thereafter. If a bill appropriates money for different objects, he may approve some items and disapprove others.

By law, he has the appointment of a great number of subordinate officers, most of whom, however, are subject to confirmation by the Senate. Over some officers he has the power of removal or of suspension from their duties

for misconduct in office. The state provides a furnished residence for its Governor, and pays him an annual salary of \$10,000.

The Lieutenant-Governor, as we have seen, is presiding officer of the Senate while it is in session, but has no vote in that body, except in case of a tie. In case of the death or disability of the Governor, he acts in his stead to the end of the term, assuming all the powers and duties of that office the same as if elected by the people. Should he die or resign or become in any way incapacitated to perform the duties of the office, then the President of the Senate would succeed him as acting Governor. His annual salary as Lieutenant-Governor is \$5,000.

The other **State Officials** who are chosen at the general election in November are the Secretary of State, Comptroller, Treasurer, Attorney-General and a State Engineer and Surveyor. These hold office for two years from the first day of January next following their election. The most of these officers are *ex-officio*, with the Lieutenant-Governor, members of various State Boards, Trustees of the Capitol, State Hall, and Idiot Asylum, and Commissioners of the Land Office and Canal Fund. The Lieutenant-Governor and Secretary of State are also Regents of the University.

The Secretary of State is keeper of all the records of the legislative and executive departments; he certifies to the signature of the Governor, receives the election returns and furnishes certified copies to county, state and United States officials. Statistics of pauperism and crime and other information it may require are reported by him to the Legislature.

The Comptroller looks after the financial affairs of the state; he receives the taxes, negotiates the loans that are authorized, examines audits and settles accounts due to or from the state, reports to the Legislature the annual receipts and expenditures, and draws warrants upon the Treasurer, who takes charge of the funds collected by the Comptroller, and who pays money upon his warrant only.

The Attorney-General is the law officer of the state, giving counsel to the other state officials and to the Legislature when it is called for. He also prosecutes and defends suits to which the state is a party.

The State Engineer and Surveyor must be a practical engineer; he is the superintendent of all the engineering and surveying necessary to be done in connection with the canals and the lands of the state.

The Superintendent of Public Works has charge of all matters relating to the repair, navigation, construction and improvement of the canals not under the professional charge of the State Engineer. He is appointed by the Governor, with the consent of the Senate, and he may suspend or remove him if he thinks public interest requires it.

The Superintendent of State Prisons appoints the agents, wardens, physicians and chaplains of the prisons, and he supervises their general management and control. He is appointed by the Governor, with the consent of the Senate, and may be removed by him for cause, but he must give the Superintendent a copy of the charges against him, and give him a hearing in his own defence.

The prisons are three in number and are located at Sing Sing, Dannemora and Auburn.

The Superintendent of Public Instruction holds office for three years, and is elected by the Legislature by joint ballot; he is the head of the school system of the state, and makes an annual report to the Legislature, giving them full information of what has been done the preceding year, and making such recommendations as he believes will increase the efficiency of the public school system. The general management of all Teachers' Institutes is under his supervision, and he decides all controverted points of school law that are brought before him. He apportions and distributes the public money, and under his direction, also, examinations of teachers are held, for the purpose of granting state certificates. He establishes rules and regulations concerning district school libraries. He makes appointments of state pupils to the institutions for the instruction of the deaf and dumb, and the blind, and visits and inquires into their conduct and management. The number of pupils in the State Normal Schools to which each county is entitled is apportioned by him. He has, besides, the general supervision of these schools. He has charge of the Indian Schools, and employs local superintendents for them, and determines their course of study. He is *ex-officio* a Regent of the University, and in this capacity has to do with the secondary and high schools of the state. He has a deputy and several clerks, and his salary is \$5000 a year.

The Regents of the University of the State of New York. — This body was incorporated by the Legislature

in 1784, and consists of twenty-three members. The Governor, Lieutenant-Governor, Secretary of State, and Superintendent of Public Instruction are members of the Board of Regents, *ex-officio*; the remaining nineteen members are chosen by the Legislature in the same manner as United States Senators, and may be removed by a concurrent resolution of the Senate and Assembly. The officers of the Board are a Chancellor, a Vice-Chancellor, a Secretary and Treasurer, and an Assistant Secretary.

It is not within the province of the University of the State of New York to give instruction, but it has to do solely with inspection and supervision. The Regents are authorized by law to incorporate colleges and academies, and to receive under their visitation the academical departments of union schools; and are required to visit and inspect all the colleges and academies in the state, examine into the system of education and discipline therein, and make an annual report to the Legislature of their condition and needs and the work done by them, with such suggestions and recommendations as they may deem desirable to advance the interests of secondary and higher education. The institutions under their charge consist of twenty-three colleges of arts and sciences for men or for men and women, four colleges of arts for women, eighteen medical colleges, five law schools, and three hundred academies, academical departments of union schools, and high schools. About 12,000 students are annually in attendance at the colleges and professional schools for higher education, and more than 40,000 at the secondary schools.

A charter may be granted for a literary college that has secured funds to the amount of \$100,000, together

with suitable grounds, buildings, and other necessary equipments. An academy may be chartered, if it have grounds, buildings, library, and apparatus worth at least \$5000 provided for its uses. The library and philosophical apparatus must each be worth not less than \$500.

The annual distribution of the following funds is entrusted to their charge: the Literature Fund, \$100,000; the fund for the instruction of common school teachers, \$30,000; and the fund for the purchase of books and apparatus, \$6000. As a basis for the distribution of the Literature Fund, the Regents conduct three times each year in the three hundred academical schools under their visitation written examinations in forty branches of study, including the common and higher English branches, the modern languages, and the classics, examinations in the preliminary branches having been established in 1865, and in the higher English branches, modern languages and classics in 1878.

The Regents are also Trustees of the State Library and of the State Museum.

The Superintendent of Insurance is appointed by the Governor, with the consent of the Senate, for a term of three years, and he must give bonds for the faithful discharge of his duties. He has general supervision of the insurance companies transacting business in this state, and annually reports their condition to the Legislature. He must not be directly or indirectly interested in any insurance company, except as a policy holder. His salary is \$7000 a year. All the expenses of this department are paid out of fees received from insurance companies.

The Superintendent of Banking is vested with general supervision of banks, trust companies, and other moneyed corporations operated under the laws of the state. They report to him, and he makes two reports each year to the Legislature. He holds office for three years, by appointment of the Governor with the consent of the Senate. He is allowed a deputy, examiner, and several clerks, and his salary is \$5000 a year.

The Board of Claims was constituted in 1883. It consists of three members appointed by the Governor, with the consent of the Senate, who hold office for six years and receive an annual salary of \$5000, besides \$500 each in lieu of expenses. This Board superseded the Canal Appraisers and the State Board of Audit, and were given the jurisdiction in all cases which they formerly had. It can hear and determine all private claims against the state, not barred by statute, that have accrued within two years prior to the time when the claim was filed, and allow what is justly due from the state. The Legislature may also authorize it to hear and decide other claims.

The Board meets four times a year at Albany, with such adjourned meetings there or elsewhere as they may determine.

The Board of Railroad Commissioners was created by the Legislature in 1882. The term of office is five years. Two of the members must be selected, one from each of the chief political parties, and one of these two must be experienced in railroad business. The third must have the recommendation of the presidents and executive committees, or a majority of them, of the Chamber of Com-

merce, the Board of Trade and Transportation, and the National Anti-Monopoly League, all of this state. They are appointed by the Governor, with the consent of the Senate, and each receives an annual salary of \$8000. Their necessary travelling expenses incurred in the discharge of their official duties are repaid them by the state, but these cannot exceed in the aggregate \$500 per month.

Their chief officers are a Secretary and a Marshal. The Commissioners have a right of entry at all times upon the property of any railroad company, but they and their clerks and agents are forbidden to accept any gifts, passes, or other gratuity from them, under penalty of forfeiture of office and punishment for misdemeanor. But in the discharge of their duties the Board, with necessary agents and experts, may travel over any railroads of the state, upon passes signed by the Secretary of State.

The Board must meet at least once in a month at its principal office at Albany, keeping a record of its proceedings, which is published in the annual report to the Legislature. Two members constitute a quorum for the transaction of any business. It is the duty of this Board to examine into, and keep themselves informed of, the condition of all railroads, and the manner in which they are operated with reference to the security and accommodation of the public, and their compliance with the provisions of their charters and the laws of the State. It is its duty to investigate the causes of accidents resulting in loss of life or injury to persons.

It has the power to examine all books and papers of railroad corporations, to subpoena witnesses and administer oaths to them; and it is the duty of the officers and agents of the companies to afford them every facility for

gaining necessary information, under penalty of punishment for a misdemeanor. If a Commissioner secretly reveals anything about one railroad to another, he will be adjudged guilty of a misdemeanor.

If the Board find that a railroad is operated in violation of its charter, or in a way that they consider to be hostile to the public interest or convenience, it is their duty to give notice to the company; and if they still persist in wrong doing, the Board presents a full statement of the facts to the Attorney-General, who will take such action as he thinks necessary to protect the public interests.

The annual expenses of the Board cannot exceed \$50,000, and this sum is paid out of the State Treasury. But in July of each year the railroad companies are assessed by the Comptroller and State Assessors their just proportion of this amount, or so much of it as has been expended, according to law.

The Civil Service Commission was organized in May, 1883. There are three members who are appointed by the Governor, with the consent of the Senate, and they may be removed, and their successors appointed in the same way. Only two of them can be adherents of the same political party. During the time they are members of this Commission they can hold no other office under the state. The salary of each one is \$2000 a year, and his necessary travelling expenses in the discharge of his duty are paid.

They appoint a Chief Examiner at a salary of \$3600 a year, with necessary travelling expenses; a Secretary, who may be one of their own number, with a salary of \$1000

a year; a stenographer, messenger, and such other assistants as are needed.

It is the duty of the Commission to aid the Governor in preparing suitable rules for carrying the act which creates it into effect. These rules provide for open competitive examinations for testing the fitness of candidates for public service. The examinations must be practical, and fairly test the relative capacity and qualifications of the applicants.

All positions are arranged in classes, and there is a period of probation before final appointment. On the basis of merit and competition, promotions are made from lower grades to higher. Political belongings and obligations are in no wise to be considered, either in making the original appointment, or upon promotion. Any member of the Commission, or employe, who violates any of its rules and regulations is guilty of a misdemeanor for each offence. Mayors of cities are required to make rules and regulations in accordance with this act. Only elective officers, laborers, teachers and such subordinates of an elected officer as he is financially responsible for are exempt from its operation.

All examinations are public, and held under regulations that are published, and their results are open to inspection. No officer or employe of the state, under penalty of being adjudged guilty of a misdemeanor, can directly or indirectly endeavor to induce another officer or employe to pay a political assessment. Any officer, or any person who is seeking an office, is deemed guilty of bribery, or of an attempt at bribery, who corruptly uses, or promises to use, official position to secure another an appointment, promotion, or increase of salary. It is adjudged to be the

same crime if votes are influenced, or any attempt is made to influence them, by means of promises of employment, or promotion, or by threats of discharge.

It is the duty of the Commission to inquire into the methods of appointment, removal, terms of service, duties, compensation and numbers, of all clerks, employes or subordinate officers of the state, or of cities or counties having a population above 50,000, who are neither appointed by the Governor, nor by a mayor, nor elected by the people. A majority constitutes a quorum for the transaction of business. They have the power to secure the attendance of witnesses and the production of books and papers. The Commission make an annual report of all their doings to the Governor, who transmits it to the Legislature.

The State Board of Health was established in 1880, and it is composed of three Commissioners who are appointed by the Governor, with the consent of the Senate, for a term of three years. Two of these must be graduates of legally constituted medical colleges, and have had not less than seven years' practice in their profession. The Attorney-General, the Superintendent of the State Survey, and the Health Officer of the Port of New York are *ex-officio* members; and there are besides these, three other members, named by the Governor, one of whom must be a Commissioner of the Board of Health of New York City, and the other two must have the same qualification of membership of health boards of other cities.

The Commissioners elect a Secretary, who may be one of their own number or otherwise, as they elect, but he must be skilled in sanitary science, and he is the executive

officer of the Board. His annual salary is \$3000, and he is the only one who receives any compensation for his services; but the necessary expenses of all the members, incurred while upon official duty, are paid by the state.

The Board meets once in three months, and as much oftener as they deem it necessary. Five members constitute a quorum for the transaction of business. It is the duty of this Board to inquire into the causes of disease, especially of epidemics, to investigate the sources of mortality, and the effects of localities, employments and other conditions upon the public health. It must collect and preserve such information in regard to health, diseases and deaths, as will be useful in the discharge of its duties, and contribute to the promotion of health, or the security of life in the state.

Copies of the reports of local health boards are sent to this Board, together with other useful sanitary information.

It has supervision of the registration of births, marriages and deaths, and of prevalent diseases. The Governor may require it at any time to examine into nuisances affecting the security of life and health in any locality. If it finds that such nuisance exists, the Governor may order it abated, and it is made the duty of the county officers to execute his orders.

Any local board of health may have a representative present, who can take part in the deliberations of the State Board when they have under investigation an alleged nuisance in that locality. It may employ experts in sanitary science to examine buildings and places; but the whole sum paid out in one year for this purpose must not exceed \$5000. The total expenditures are limited to

\$15,000 a year; and an itemized account of the way it is expended must appear in the annual report.

The Commissioners of Quarantine are appointed by the Governor, with the consent of the Senate. The term is for three years, or until their successors are appointed. There are three Commissioners, and each has an annual salary of \$2500. They must be citizens of the state, and residents of New York City.

The Quarantine establishment consists of warehouses, wet docks and wharves, anchorage for vessels, a floating hospital, a boarding-station, a burying-ground, and residences for officers and men.

The object of quarantine is to prevent the introduction of any contagious, infectious, or pestilential disease. It applies to yellow fever, cholera, typhus or ship fever, and small-pox. The general superintendence and control of the quarantine establishment, and the care and treatment of the sick, is vested in the Health Officer of the Port of New York, who is appointed by the Governor, with the consent of the Senate, and holds his office for two years, or until his successor is appointed. He must be a doctor of medicine of good standing, and of at least ten years' experience in the practice of his profession. He must also be practically familiar with the diseases subject to quarantine.

He has the appointment of his deputies, assistants, nurses, and all other subordinates, and he can summon the assistance of the police force of New York City in any necessary emergency.

All vessels, persons, and merchandise coming from ports subject to quarantine are under the rules and orders of

the Commissioners and Health Officer. Fees are collected from masters of vessels, owners of merchandise, and persons to whom services are rendered. The state usually makes a considerable annual appropriation beside, for the care and maintenance of its property.

The Health Officer makes an annual report to the Commissioners, which they include in their annual report to the Legislature.

The Bureau of Labor Statistics was established in 1883. A Commissioner is at the head of the Bureau, who is appointed by the Governor for a term of three years by the consent of the Senate. He receives a salary of \$2500 a year, and he may appoint a clerk. An allowance is also made for other expenses of the office.

He has power to send for persons and papers and to examine witnesses under oath, or to take depositions. Employers of labor, in whatever capacity, are obliged under penalty, to furnish him such statistics and information within their possession as he may require.

It is his duty to collect, assort, and present to the Legislature, in an annual report, statistical details relating to all departments of labor in the state, especially those relating to the commercial, industrial, social, and sanitary condition of workingmen, and to the productive industries of the state.

The office of **State Dairy Commissioner** was created by the laws of 1884. The Commissioner is appointed by the Governor, and he may remove him at his pleasure. The term of office is two years, and the salary is \$3000 a

year and the necessary expenses incurred in the discharge of official duties.

He appoints such assistant Commissioners and employs such experts, chemists, agents, and counsel as he thinks necessary for the proper enforcement of the law. But the aggregate expenses of this department cannot exceed \$30,000 a year.

He makes an annual report to the Legislature of all proceedings and disbursements. It is the duty of the Commissioner to prevent the sale of any impure, unwholesome, or adulterated milk, or any article of food manufactured from the same. To accomplish this, he has full power of access to all places of business, carriages, vessels, and cans used in the manufacture and sale of dairy products, or any imitation of them.

The Agricultural Experiment Station was established by an act passed in 1880 ; its object is to promote agriculture in its various branches, by scientific investigation and experiment. A Board of Control of nine members, holding office for three years each, have the management of this institution. The Governor is *ex officio* a member. Six members are a quorum for the transaction of business. All serve without pay ; but the Board may, by vote, pay the expenses of members which they incur in attendance upon its meetings.

They annually elect a president from their own number, but their secretary and treasurer hold office during their pleasure. The treasurer has to give bonds for the faithful discharge of his duties. They acquire and hold property in the name of the state necessary to accomplish the objects of the institution.

The station is located at Geneva, and it is under the oversight and management of a director, who employs suitable and competent chemists and other persons necessary to carry on the work of the station and accomplish the objects for which it was instituted.

The Board makes an annual report to the Legislature of its proceedings, receipts, and expenditures. The annual outlay of the state on behalf of the station is limited to \$20,000.

A Commission of Fisheries was established in 1868. It is composed of five members appointed by the Governor for a term of five years. They serve without pay, and expend such sums in prosecuting their work as are appropriated from time to time by the Legislature. It is their duty to devise and enforce measures for protecting and propagating fish in all the waters in and adjacent to the state. Fish-hatcheries, each under charge of a Superintendent, have been established at five different places, and fish-ways have been constructed in many rivers, so that fish can migrate to the waters above the dams.

The Commissioners appoint fifteen fish and game protectors, who have to give bonds for the faithful discharge of their duties. They must see to the enforcement of the laws for the protection and propagation of fish and game. Penalties are imposed for the taking of fish near fish-ways, and at certain seasons, or by means of seines or nets, and for the pollution of the waters of the state. One of the Commissioners must be a resident of Long Island, and is known as the Shell-Fish Commissioner.

The Forest Commission was established in 1885. There are three members who are appointed by the Governor,

with the consent of the Senate, the term being for six years. They serve without pay, but their expenses incurred in the discharge of their official duties are repaid them.

The Commissioners have charge of the forest preserve, which consists of all the wild forest lands owned by the state. They make rules for its preservation and to guard against its injury from fires and through trespassers. They employ a forest warden, forest inspectors and such agents as are necessary. These officers may arrest, without warrant, any person found upon the forest preserve violating any of the laws for its regulation and preservation.

It is the duty of the Commission to bring actions, when necessary, to recover damages for trespass or injury to the preserve, and to recover possession of land wrongfully held or occupied by persons not entitled to them. They make an annual report to the Legislature, and besides give much information concerning forest fires, death of trees through insect ravages, and the influence of forests on climate, health, rainfall and water-supply.

The income from the forest preserve is paid into the State Treasury. The expenses of the Commission are limited to \$15,000.

The State Board of Charities was organized in 1867, and consists of ten members by appointment, and four — the Lieutenant-Governor, the Secretary of State, the Comptroller, and the Attorney-General, — members *ex-officio*. The Commissioners receive no salary, but are reimbursed for their necessary expenses.

They inspect, as often as they think proper, all charitable and correctional institutions, excepting prisons, in-

quiring into the care and management of the inmates, and the condition of the buildings and grounds. Their power extends to all institutions, whether public or private, for the detention and treatment of persons of unsound mind.

The Commissioners are allowed a Secretary and necessary clerks, and they make an annual report to the Legislature.

The office of **State Commissioner in Lunacy** was created by the Legislature in 1873. It is the duty of the Commissioner to examine into and report upon the condition of the insane and idiotic, and the management and conduct of the institutions and asylums for their custody; he has the power to investigate wrongs and abuses and to require them to be remedied. There are eight state asylums, beside the county asylums and private institutions; the object of the state is to secure from a competent and experienced physician an independent report of their condition and the treatment of the inmates, who number about 15,000. The salary of the Commissioner is \$4000.

The Courts of the state are of four different grades: the Court of Appeals, consisting of six judges and a Chief Judge; the Supreme Court, with fifty-eight judges; the County Court, with one judge for each county; and Justices of the Peace. All the judiciary offices are elective; the Justices of the Peace for a term of four years, the County Judges for six years, and the Justices of the Supreme Court and Court of Appeals for fourteen years, except that it is provided that no judge of the two higher

courts can hold the position longer than till the last day of December after he shall have reached the age of seventy, even if the term for which he was elected had not expired.

A Justice's Court may be held in any town by one of its Justices of the Peace. This court has jurisdiction in civil cases where the sum at stake is not above \$200. Petty criminal cases may also be tried here, and the penalty awarded. Persons suspected of crimes the gravity of which is beyond the jurisdiction of this court may yet be arrested upon its warrant, and either released on bail or committed to await the action of a higher court.

The County Court is next above in jurisdiction, and may be presided over by the County Judge, or by him in connection with two Justices of the Peace. In the latter case it is called the Court of Sessions, and sits for the trial of all criminal cases, except the gravest, upon indictment found by a Grand Jury. Its jurisdiction in such cases is original; that is, a lower court is not competent to try them.

A civil suit in the County Court may either be begun there, or it may have been appealed from a lower court. The County Judge alone constitutes the court. A Petit Jury renders decisions in cases tried before both courts.

The County Judge is also Surrogate in many counties; the duties of this office pertain to the proof of wills and the proper distribution of the property of deceased persons. In about half of the counties, however, a person is elected to hold this office for the same period as the County Judge; those having a population of more than 40,000 elect a Surrogate, whose official duties belong to that office alone.

The Supreme Court is the next higher, and it is divided into several branches, the effect being the same as if there were several different courts. It holds sessions in different parts of the state, which has been divided into districts eight in number for that purpose.

The Justices of the Supreme Court preside and try causes in the Circuit Court, Court of Oyer and Terminer, and Special and General Term. The Court of Oyer and Terminer is for the trial of the gravest criminal cases. A Special Term is for the purpose of hearing motions and appeals, and a General Term for the hearing of appeals only. A judge who has sat at the trial of a case cannot sit in Special or General Term to hear it on appeal. The state is divided into five departments¹ for hearing appeals at a General Term, which consists of three judges sitting together.

The judicial districts are subject to change of boundaries after each decennial enumeration. Five of the Justices of the Supreme Court must reside in the district in which is the city of New York, five in the second district, and four in each of the other districts. Any justice of this court may hold Special Terms and Circuit Courts, and preside in Courts of Oyer and Terminer in any county.

The Court of Appeals is the highest court in the state. As its name implies, it has no original jurisdiction, but can only decide in cases of persons dissatisfied with decisions of lower courts; for such it is the court of final resort.

A case may be appealed from a Justice's Court to a County Court, thence to the Supreme Court, to Special Term, and to General Term; but a case originating below

¹ For Tables of Districts and Departments, see pages 97, 98.

the County Court cannot be taken to the Court of Appeals. At each stage of the appeal it is competent for the higher court to reaffirm or to reverse the decision of the lower court, or to grant a new trial. Any five members of the Court of Appeals constitute a quorum, and the concurrence of four is necessary to a decision.

No Justice of the Supreme Court or member of the Court of Appeals can hold any other office or public trust. A vacancy in either court must be filled at the next general election, and the person so elected will hold office for a full term. But until this election is held, either the Governor alone, or with the consent of the Senate if it is in session, fills the vacancy by appointment, and the one so appointed acts as judge until the last day of December following the election.

Judges of the two higher courts may be removed by a concurrent vote of two-thirds of all the members elected to both houses of the Legislature. Other judicial officers, except Justices of the Peace and other judges of courts that are not of record, may be removed by a vote of two-thirds of the Senate upon the recommendation of the Governor. The reasons for removal must be entered upon the journals, and the accused must have a copy of the charges, and an opportunity to be heard in his own defence.

All judicial officers, except Justices of the Peace, who are paid by fees that are regulated by law, receive salaries fixed by the Legislature, which cannot be diminished during their term of office, and they are prohibited from receiving any fee or other perquisite of office. These salaries vary from \$1,000 to \$10,000 per annum. The salaries of all judges, except those of the two higher courts, and all the other expenses of holding these courts, are paid

by the cities and counties in and for which such courts are held or instituted.

The Constitution also provides for a Superior Court and a Court of Common Pleas (formerly called the Mayor's Court) with the same number of judges, for the city and county of New York ; and for superior courts in the cities of Brooklyn and Buffalo. Other local courts may also be established by the Legislature on application of the Board of Supervisors of a county. The city of New York is also divided into judicial districts in which two justices are elected, one for the trial of civil cases involving small sums, and the other for petty criminal cases. Courts of similar powers and jurisdiction are also established for the other cities of the state.

Jurors are drawn from the body of citizens between the ages of twenty-one and sixty. Where there is not a commissioner of jurors, as there is in some cities, the supervisor, assessors, and town clerk make up the list. Some citizens are exempt on account of physical or mental infirmities, or because their temporary withdrawal from their customary vocations might work injury or hardship to numbers of people. Of this class are physicians, teachers, locomotive engineers, clergymen, firemen, policemen, and some others. Members of the National Guard and some others are also exempt, on account of services rendered the state in other ways. If all persons liable to this duty are summoned impartially, a term of service for any one will be short and infrequent.

Judicial Proceedings.—In all cases before a court there are two parties, called the plaintiff and the defendant.

The former is the prosecutor and the latter defends himself. In civil cases the plaintiff is usually a private person, while in criminal trials the state stands in that relation, the assumption being that the whole body of the people is injured by the crime.

An action is brought in a Civil Court to compel restoration of property, or to secure compensation for the infringement of one's rights. Suits may be brought to enforce payment of a debt or to recover damages to person or property. A criminal action is brought to punish a person for violating a law, and a conviction results in the defendant being obliged to pay a fine to the government, or to suffer imprisonment, or both perhaps.

All proceedings in Courts of Record are by means of written documents in order that they may be preserved. The plaintiff in a civil case procures the first paper from the judge, which is called a summons, and this is served upon the defendant by a constable or other officer of the court, or upon his attorney, who may accept service for him. This officer then reports in writing to the court what he has done. If the defendant thinks he has a good defence to the action he will appear at the appointed time, and there will be a trial. If he does not appear in due time, judgment may be taken, and execution issue against his property at once.

The court will compel the attendance of witnesses for either party to the suit, if necessary, by the issue of *subpœnas*, which will be served upon the witnesses by an officer of the court. *Subpœna* is literally "under penalty" of the law.

Trials may be before a jury of six men in a justice's court, or of twelve in a higher court, or they may be before

the court alone unless either party to the suit claims his right to a jury trial.

The plaintiff files his formal complaint, and the defendant his answer to the same, which constitutes his ground of defence, and these papers are called the *pleadings*. When the two parties substantially agree in the statement of the facts the court decides the case without the formality of a trial. If they do not agree, then there is an *issue* made, and a trial must be had. The attorney for the plaintiff usually begins with a brief statement of his case and what he means to prove by his witnesses. He then calls them, and they are sworn and examined; each may be cross-examined by the defendant's counsel. The defendant then briefly states his case if he chooses, and calls his witnesses, who are sworn and examined, and in turn cross-examined by the plaintiff's counsel. In closing the case, the argument of the defence is heard first, then that of the plaintiff. If the proceedings are before a jury the judge then gives them a summary of the evidence, and the points for their decision, and instructions as to their duty. An officer of the court then takes the jury to a private room where they deliberate. They must be unanimous in agreement upon their verdict; if they cannot agree after due consideration of the facts, they are discharged from this case, and another trial may be had.

When the jury agree, *judgment* is entered according to their verdict, and the unsuccessful party has to pay the costs of the action, it being considered equitable that the party in the wrong should pay the legal expenses attending the suit.

The defeated party may, if he will, appeal to a higher court, which will examine all the proceedings of the lower

one to see if any error was committed. If there was an error, the judgment is reversed, and a new trial is granted; but if there was no error, the judgment is reaffirmed. If there is no higher court to which he can appeal, or if there is, and he does not choose to take an appeal to it, and if, at the same time, he does not satisfy the judgment of the lower court, a writ called an *execution* may be issued against his property, which may be seized by the sheriff, and enough of it sold to pay the judgment. *Execution* against the person can no longer be had for the collection of debts.

In Criminal Proceedings no person can be held to answer for a capital or otherwise infamous crime or for other than petty offences, who has not first been indicted by a *Grand Jury*. This body, usually twenty-three in number, is composed of citizens of a county who are summoned several times a year to inquire into crimes that have been committed in that jurisdiction. These men are instructed by the court as to their duties, and are sworn to inquire, diligently and without fear or favor, into all cases that are brought before them. The District Attorney prepares formal accusations against such persons as he thinks guilty of crime, or who have been held to bail by a lower court to answer in a higher one. Witnesses in support of the accusation appear, and are examined. If the Grand Jury, upon the evidence thus produced, or a majority of the whole body, think there is probable cause to believe the accused guilty, a "true bill" is found. This is an *indictment*, and serves as the basis of the action in the court. All the proceedings in the Grand Jury room are kept secret.

If the accused has not before been arrested, a warrant may then be issued, and he may be placed in jail to await trial if the case is not bailable, or if it is, and he is unable to produce the required sureties for his appearance when wanted. *Bailing* an accused person consists in giving bonds to forfeit to the state a certain sum in case the bondsmen are not able to have him appear at the appointed time. A prisoner who cannot get bail, and who thinks he is unlawfully held, may apply to a higher court for a writ of *habeas corpus*. If the writ is granted, the sheriff, or whoever has the person in custody, brings him before that court. If his arrest and detention appear to be lawful, he is returned to jail; if not, he is released.

Upon *trial* he is furnished with counsel by the state, if unable to procure any for himself. He is then *arraigned* by being called upon to plead to the indictment. His answer is "guilty" or "not guilty," and this is his "plea." He has a right to a trial by a jury, who are sworn to well and truly try the issue between the people of the state and the defendant, and to render a verdict according to the law and the evidence. Both the counsel for the state and for the accused have a right to challenge any of the men summoned as jurors, on the ground of prejudice, character or competency. A certain number of peremptory challenges are also allowed. These are challenges for which no reason need be given.

A satisfactory jury being obtained, the district attorney states what he will prove on the part of the state, and calls his witnesses, who are sworn and examined; the accused has the privilege of cross-examining them. The counsel for the accused then states his case, calls and examines witnesses, who are cross-examined by the opposing counsel.

Arguments are then made by both sides, and the judge delivers his *charge* to the jury, giving them their instructions and the principles that should govern them in making up their verdict.

If the jury agree, the foreman announces the verdict, which is either "guilty," or "not guilty." If they cannot agree, they are discharged from the case, and another trial must be had. If the accused is declared "not guilty," he is discharged; but if "guilty," the court sentences him as the law requires. He is committed to the custody of the sheriff if the sentence is imprisonment, or if it be a fine, the necessary steps are at once taken to secure payment.

Exceptions are sometimes taken by the counsel to the admission of evidence; but if it has been admitted notwithstanding, and if the judge allows the exceptions, they may be taken to a higher court, where arguments upon them are heard from both sides. If the ruling of the judge is sustained, the case is returned to the court where it was tried, for sentence which has been suspended pending this appeal. If the ruling is not sustained, a new trial is granted to the prisoner.

A Struck Jury may be ordered by the Supreme Court and the Superior Court of cities when it is thought that an impartial trial cannot otherwise be had, or when the case is of such a complicated nature as to require persons having special knowledge or more than average intelligence.

The Clerk of the Court selects from the jury list the names of forty-eight persons whom he thinks most likely to be unbiassed, and mentally best equipped to hear the

case. From this list the parties to the case may each alternately strike one until but twenty-four remain. Out of the remaining number a jury is selected in the usual manner.

There may be trials of public officers by *impeachment*. The Assembly has the power to impeach by a vote of a majority of all its members. They may bring to trial, before the majority of the Senate and of the Court of Appeals, any state officer not otherwise removable by law. An officer thus accused cannot exercise the functions of his office until he has been acquitted. No one can be convicted without a vote of two-thirds of all the members present. Removal from office and disqualification to hold any office of honor, profit or trust under the state, are the penalties of conviction by impeachment. The person may, however, be also indicted and punished in the courts according to law.

A State is one of the equal political units of this country, possessed of the powers not delegated by it to the Union of States, and which they do not prohibit it to exercise. It is a free commonwealth, independent and sovereign within its own boundaries for all purposes of local government.

Counties are subdivisions of a state for convenience of local government. They are endowed with rights conferred by the state, and they have duties to perform which it imposes. A legislature may create new counties or change the boundaries of those already existing.

The County.— Among the most recognizable differences in ways and means of local government, the rela-

tions of the county to the general system is one of the most marked. In the south, and to some extent in the west, counties are important political units, and generally in the Middle States they are vested with greater powers and exercise higher functions as political divisions than do the towns. In New England, on the contrary, the town is the important political unit, and the town meeting a powerful legislative body, controlling local affairs that are, in this state, in the hands of a representative body which legislates for the county.

Every county has its county seat, where are located its court-house with offices and rooms for the transaction of the county business, its jail or penitentiary, and any other necessary public buildings. Here are preserved the records of the court, the registry of deeds, wills, mortgages and other important papers.

The Sheriff is named first in order of the county officers by the Constitution, and he appears to be the most important officer of the county. He is elected for a term of three years and is not eligible to election for the next succeeding term: he has to give security for the faithful discharge of his duties. The preservation of the peace within his county is one of his highest duties, but he can make no arrest and do no official act outside of his county. He arrests disturbers of the peace, and those charged with crime, and has the custody of the jail and all persons confined there. He attends all the County Courts, summons witnesses and jurors, serves the processes of the court, and attends to the execution of its decrees. He has deputies for whom he is responsible, and may summon and compel the assistance of citizens when necessary.

A District Attorney, who should be a counsellor-at-law in the supreme court, is also chosen triennially in each county. He is its law officer, prosecuting its criminals, and advising with its Grand Jury and other officers, and giving them such information as they may need.

The County Clerk holds office for three years, being chosen by a popular vote. He is custodian of all books, records and papers of the county. Besides recording the judgments of the court, he registers deeds, mortgages, and other important papers. He draws the jurors, administers the oath to witnesses and jurors, and is clerk of all the courts held in the county.

The Treasurer of the county receives the money due from the town collectors for county taxes, pays over to the Comptroller what is due from the county to the state, and receives from him the school money that is due the county, which he pays to the supervisors of the towns upon the certificate of the School Commissioner. He makes an annual report to the Supervisors.

The County Board of Supervisors is an important legislative and administrative body composed of one member from each town in a county and one from each ward of any city in the county, except that in the county of New York the City Board of Aldermen take its place. They meet as a board of canvassers of election returns, make tax lists and cause the taxes to be collected. They also manage and legislate concerning county highways, bridges, buildings and any other property owned by the county. If a county is entitled to more than one member of the

Assembly, they divide it into districts. This board has the power to change the boundaries of towns already existing and to create new ones. In suits at law to which the county is a party this board represents it. They annually make a list of three hundred citizens or more to serve as Grand Jurors. A Supervisor has to give bonds for the faithful discharge of his duties.

Coroners are elected in each county for three years, who investigate the causes of suspicious deaths, and hold inquests if necessary. They have power to summon a jury and witnesses, and to administer the oath to them, when a formal investigation is considered necessary.

School Commissioners, one or more, according to the population of the different counties, are elected for a term of three years. Each has the general supervision of the schools in his district, with the power to examine into the qualifications of teachers, and license those found to be fitted for the work; to form new school districts, and to change the boundaries of old ones. A Commissioner must visit each school as often as he can, and know what its instruction, management and discipline are. Under the direction of the State Superintendent he must organize and hold a Teachers' Institute at least once a year. No new school building can be erected in a district, the plan of heating, lighting, and ventilating of which does not meet the approval of the Commissioner. He makes an annual report to the State Superintendent concerning the schools, teachers, examinations and licenses, official visits, condition of school buildings and grounds, and Teachers' Institutes, with such recommendations as his experience

leads him to believe would improve the public school system.

There are also one or more *Superintendents of the Poor* in each county, who make rules for the management of the county poorhouse, and for the employment and support of the people placed there, appoint a keeper and his subordinates, decide questions concerning the legal settlement of persons requiring aid, and make an annual report to the Board of Supervisors of their doings.

The Sheriffs, County Clerks, and Coroners are paid for their services by fees that are established by law. The County Judge, Surrogate, Treasurer, District Attorney, and School Commissioner are paid annual salaries. The Superintendents of the Poor and the Justices of the Sessions are paid by the day.

Each **Town** is a body corporate within certain definite boundaries, and having local jurisdiction subordinate to the state. Its powers are defined by general statutes. It can sue and be sued, and make such regulations as are necessary for the management of its affairs, for preserving peace, good order and the public health, and it can raise money by taxation. The voters of each town meet annually in town meeting to elect officers of the town. Each qualified voter may have an equal voice in the proceedings. Annual appropriations are made at this meeting. In any county all the annual town meetings are held on the same day. Special town meetings may be held for the purposes named in the statutes.

Justices of the Peace preside at town meetings, acting as inspectors of election. The officers elected at an annual town meeting are a Supervisor and a Town Clerk,

each for one year, Justices of the Peace, Assessors, Highway Commissioners, Overseers of the Poor, a Collector, Constables, Auditors and Excise Commissioners. Some of these hold office for three or four years, and others for one year, and the number elected may be varied at different times by the will of the voters at the election.

The Supervisor is the chief officer of the town. He receives and pays out money belonging to the town for schools upon the warrant of the trustees, and for other purposes as directed by law, and has important duties as a member of the County Board of Supervisors. Cases of disputed valuation of property, where a school district is partly in one town and partly in another, are adjusted by the Supervisors of the two towns. In connection with the Town Clerk and Assessors, once in three years he is to make up a list of persons to serve as petit jurors.

The Town Clerk acts as clerk at the town meetings, keeping its records and filing such papers as properly belong to his office, and the bonds of those required to give them. He also keeps a file of chattel mortgages, and a record of births, marriages and deaths. The poll list is in his custody, and he notifies persons of their election.

The Assessors make an inventory of real and personal property and fix its valuation for purposes of taxation.

The Highway Commissioners have general charge and supervision of the public roads and bridges.

The Collector is elected annually, and must give bonds to the Supervisor, with one or more sureties, in double the

amount of taxes to be collected. He collects what is due and pays it over to the Supervisor and to the other officers named in his warrant. If taxes are not paid within a specified time, the property, or a part of it, upon which they are assessed, may be taken and sold at public auction after due advertisement. Real estate thus sold may be redeemed under certain conditions.

A School District is a subdivision of a town. It may elect a sole trustee annually, or it may have three trustees, the term of office of one member expiring each year, or it may have a Board of Education of six or nine members, one-third of the number being elected annually. The districts having a Board of Education are called Union Free School Districts, and they may have also a Treasurer in addition to the Clerk, Collector and Librarian, who are also elected in districts which have trustees.

The trustees may hire and pay qualified teachers, maintain a school for the term required by law, make an annual report to the School Commissioner, and have charge of the district property. The duties of the Clerk, Collector, Librarian and Treasurer are sufficiently made known by their respective official titles.

The annual school meeting is held on the last Tuesday in August, and women may vote at this election under the same general restrictions as men and are eligible to the same offices.

Villages are communities whose wants and requirements for efficient local government are not fully met by the town system, but whose population is not yet large enough to require all the machinery of a city government. Such

a territory, having a population of not less than three hundred persons to the square mile, may be incorporated as a village under a general law of the state. It may elect a president, board of trustees, treasurer, and collector and the trustees may appoint a clerk, street commissioner, police, and other necessary officers, and establish a fire department and a board of health, levying taxes for necessary village expenses. The President is the executive officer of the organization, and it is his duty to see that its regulations are enforced. These officers are usually elected for one year.

Villages are parts of the towns in which they are situated, but cities are not. In the latter the town government is wholly superseded, while in the former it is not, although the duties of some of the town officers may be affected by the village charter.

Cities are composed of a population too large to be governed by the simple machinery of a town or village. The county and state officers have the same powers and duties in cities as in the country, but owing to the massing of large bodies of people upon limited territory, a strong organization with extensive powers is needed. An instrument called a *Charter* is granted by the Legislature, which defines the boundaries of a city, gives it its name, and states what officers it shall have, with their duties. This charter must be accepted by a vote of the people, but it may be amended by the Legislature at its pleasure. Cities and villages are restricted in their power of taxation, assessment, and contraction of debt, or loaning their credit.

The usual officers of a city are a Mayor, Board of

Aldermen, an Attorney or City Solicitor, Board of Education, Treasurer, Comptroller, Assessors, a Collector of Taxes, a Board of Health, Police Commissioners, Excise Commissioners, a Superintendent of Schools, and a Superintendent of Police. In some cities there may be also a Superintendent of Streets, a City Physician, City Engineer, and Engineers of the Fire Department. Some of these are chosen by the people, others by the Board of Aldermen, or by the Mayor, or nominated by the Mayor and approved by the Aldermen.

The Mayor is elected by the people for a term of one, two, or three years; the term of office not being the same in all cities. He is the principal officer of the city, and it is his duty to see that order is maintained, the city property cared for, and the laws and ordinances enforced. He gives the Aldermen such information, and makes to them such recommendations as he thinks are for the public good. He may veto ordinances which they pass.

The Common Council, in some cities, consists of the Board of Aldermen alone, and in others of this Board and the Mayor.

The Board of Aldermen is elected by the people, a city being divided into wards, and one or two members being elected from each ward, usually for a term of two years. This Board, outside of the city of New York, has considerable legislative power. It can lay and collect taxes, appropriate money for the erection of public buildings and for the carrying on of other public works, for the salaries of officials, and the support of the schools, and fire and police departments. It can also build sewers, lay out and alter streets, and regulate their use.

City Ordinances relate to precautions against fire, accident, and infectious diseases, the removal of offal and snow and ice from sidewalks and streets, the punishment of offenders and the general protection of property and health.

For the purposes of this work the names of the other officers are a sufficient indication of their duties.

The Election Returns in a presidential election are under the control of state law and state officers from the closing of the polls until the final canvass of the vote by the State Board of Canvassers. Special provisions of the law apply to the city of New York only. In all other parts of the state the inspectors of elections make two copies of their original return sheets, one of which is filed in the office of the Clerk of the town or city at once, and the other with the Clerk of the County within twenty-four hours after the canvass of the vote is completed. The original return sheets are delivered to the Supervisor of the town or ward where the votes were cast.

The Supervisors of a County meet as a Board of Canvassers the first Tuesday after the election is held. The County Clerk records the result as it is ascertained by them, sending one copy by mail to the Governor, another to the Secretary of State, and still a third copy he must deliver to the Secretary of State in person or by deputy. The Secretary of State usually acts as Chairman of the State Board of Canvassers; and that officer, with the Comptroller, Attorney-General, Treasurer and State Engineer, constitute this Board. They meet on the Wednesday following the third Monday of November after the election. The work of the Board consists mainly in ratifying and

signing the results already ascertained through the compilation of the returns.

The law of the state requiring the electors to meet and cast its vote on the first Wednesday of December has been superseded by an act of Congress passed Feb. 3, 1887, requiring the electors in all the states to meet the second Monday in January following the election, to formally cast the vote of the state for President and Vice-President.

The provisions of this law also govern the conduct of inspectors of election and Boards of Canvassers of the votes for state and local officers, so far as they are applicable.

The Militia consists of all able-bodied citizens between the ages of eighteen and forty-five, except that such as have religious scruples against bearing arms may be excused. The company officers are chosen by the ballots cast by its members; field officers of regiments and separate battalions by the written votes of their commissioned officers; brigade officers by the field officers of the brigade; staff officers are appointed by regimental, brigade and division commanders. All the officers are commissioned by the Governor, who also appoints all Major-Generals, a Commissary-General, Adjutant-General, and other Chiefs of Staff, and Aides-de-Camp, whose commissions expire with the term for which he was elected.

Volunteer members of the National Guard constitute the present organized militia force. Arms, equipments, and sometimes armories are furnished them at public cost.

Public Schools, supported by state and local taxation, presided over by qualified teachers, are not only accessible to all, but attendance upon them is required by law.

Children between the ages of eight and fourteen must attend some school at least fourteen weeks in each year. In some cities and thickly settled communities special officers are appointed to see to the enforcement of this law. Persons wishing to qualify themselves to teach can attend Normal Schools free of charge of tuition. There are ten of these located at convenient points.

The state school tax and the income from the common school fund, which is apportioned by the State Superintendent among the cities and towns, can be used for the wages of teachers only. Money for other necessary expenses of the schools is raised by local taxation, as is also additional money for the pay of teachers if the sum received from the state is insufficient.

Highways and Bridges are generally provided at the public expense, and are free to all. There are Commissioners of Highways chosen by ballot in each town, who have the care of its roads and bridges. They spend such sums as are legally raised for necessary changes and repairs. Each town is divided into road districts, with its overseer who superintends the performance of the work upon the roads assigned to the inhabitants of his district. Every male inhabitant over twenty-one years of age, and every landowner is liable annually for the performance of a certain amount of work upon the public highways. A single road commissioner may be elected annually, or there may be three, each elected for three years, the term of one member expiring each year.

The Poor of each town are provided for at the public expense if unable to take care of themselves, but they

must have a legal settlement in the town. If they do not, they become a county charge. In some cases a town's poor are cared for by the county, but at the cost of the town. One or two overseers of the poor are elected annually, and it is their duty to afford relief where needed, and to ascertain where the indigent have a legal settlement, so that the expense of their maintenance may be borne by the community where they properly belong. The state also has asylums for the pauper insane, blind or sick, and those who are not a legal charge upon any town or county. Parents or children of paupers must care for them if able.

The Canals. — Constitutional provision was made to raise by taxation all the money necessary to pay the debts incurred in the construction of the canals. They are owned and managed by the state, and no tolls are charged for their use.

A District is a term of frequent use and of varied application. There are **road districts** under charge of an overseer of highways; **school districts**, under charge of school trustees; and **election districts**, all the voters in whose boundaries are registered and cast their votes in one place. The two former are usually part of a town or village, and the latter may be the whole of a town or village, or a part of a city. **A School Commissioner District** is the whole or a part of a county (New York excepted), which triennially elects a commissioner of public schools.

An Assembly District is a part or the whole of a county which annually elects a member of the Assembly.

There is one exception to this—the counties of Fulton and Hamilton form but a single district for this purpose. **A Senate District** is generally composed of two or more counties. Albany, Oneida, and Erie counties each form a single district. Kings County is divided into three districts. Richmond County is joined to New York, and together they form seven districts.

A Congressional District is a part of a county, or a whole county, or a number of counties united in one constituency for the election of a representative in Congress. All of these districts are as nearly as possible to embrace an equal population.

A District Attorney is the law officer representing a county. **A Judicial District** is one county in the case of the county of New York, but is composed of several counties in the remaining seven¹ districts. Each district elects a number of Justices of the Supreme Court.

Taxes are assessed and collected to pay for the services of government officers, state and local, to carry on the machinery of the courts, to support public schools, to maintain highways and bridges, to erect necessary public buildings and other public works and keep them in repair, and to pay the interest and principal of public debts. The rate of taxation varies. In rural neighborhoods it is very low, while in some cities it is almost three per cent of the whole valuation. All real estate, except that used for public purposes, is taxed; the assessment is made where the property is situated; personal property is

¹ See pages 97, 98.

assessed where the owner lives, and the personal estate of corporations where the principal office of the company is.

The Legislature of the state, the Supervisors of a county, the Board of Trustees of a village, and the people at the annual meeting of a town, respectively determine what amounts of money must be raised by taxation to carry on state and local governments.

The Town Collector of taxes pays out the funds he collects for local purposes to the various persons named in his warrant. The county and state taxes he pays over to the Treasurer of the county, who in turn pays over the portion belonging to the state to the Comptroller.

The Oath of Office, which it is required that members of the Legislature and all executive and judicial officers shall take, except those of inferior grades who may be exempted by law, is very explicit and exact. The person subscribing to it must profess thorough loyalty to the Union and to the state. He must also further make oath that his election was procured by strictly honorable means; only such efforts being made to secure it as would bear the closest scrutiny in the open light of day and be approved by common consent:

I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of _____, according to the best of my ability. And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote.

Any person who swears falsely is guilty of *perjury*. This is a crime which society strongly condemns, and upon conviction visits severe punishment upon the offender. There may be different grades in the gravity of the offence and its consequences, but the essence of the crime of telling an untruth and making an oath that it is the truth is always the same.

The legal rate of interest is six per cent, and usury is a misdemeanor punishable by fine, or imprisonment, or both. Any form of device by which the borrower is obliged to pay the lender interest beyond the legal rate is usurious. Laws fixing such rate are enacted upon the theory that they are necessary for the protection of the poor against the rich, and so that the lender shall take no undue advantage of the necessities of the borrower.

The tendency of later legislation is toward the theory that money should be treated as merchandise, and that the parties to a loan may make any bargain concerning it that seems to suit their interest; but when no bargain is made the law shall say what the interest is.

Political Rights and Duties. — While the Constitution provides that certain officers shall be elected at a fixed time and in a prescribed manner, and defines their powers and duties, it has left to the voluntary action of citizens the creation of the machinery by which the candidates for the several offices are to be named. Naturally, the people, where there is a general or a qualified suffrage, seem to divide themselves into two great parties, ranging themselves upon opposing sides upon questions of local or general government. In this country each party is repre-

sented by its committee of citizens who look after its interests, calling the people together in *caucus* in a town or ward, who sympathize with its purposes and aims. A *caucus* generally names candidates for local offices and delegates for county, district and state conventions. These conventions nominate candidates and adopt platforms of principles. The number of delegates any locality may send to a convention is usually determined by the number of votes it cast for the party at the last preceding election. The committees and candidates of each party present the party claims by means of newspapers, circulars, public meetings and personal influence.

The beginnings of political power are in the caucuses, or primary meetings. The good citizen can here exert the most potent influences for the public welfare in securing the nomination of honest and intelligent men for office, and in so shaping the party aims that they shall promote the public interest, and not be degraded to serve private or selfish ends. One of the highest duties of the citizen is to see that the primary meeting is kept free of all taint of dishonesty.

When the people are nearly equally divided by political questions there is much less danger of hasty and ill-considered legislation; measures will be more closely scanned and their bearings upon the public welfare more carefully weighed; there will be a better adjustment of means to ends, and both means and ends will be higher. A more solemn sense of responsibility and accountability will attend all proceedings. Better men will be sought for to serve in public positions. But a party having a large majority, and being long continued in power, feeling strong in its hold upon public confidence, is in danger of

having its strength diverted to the promotion of selfish or corrupt schemes; bad men may be nominated and elected by force of party discipline, and reckless or bad legislation be the result. Parties nearly evenly balanced in numbers, intelligence and character, form one of our highest safeguards.

Historical. — A constitutional convention was ordered by a vote of the people Nov. 4, 1845. There were 213,257 votes for a convention and 33,860 against it. The work of the delegates was approved Nov. 3, 1846, by a vote of 221,528 in favor to 92,436 opposed.

A change was made in Section 3 of Article 7, providing for a speedy completion of the canals, at an election in February, 1854, and in November of 1882 this section was still further amended, tolls were abolished, and the canals were made forever free. This last amendment was adopted by the people by a vote of nearly three in favor to one opposed.

In November, 1866, the people voted by a majority of over 96,000 to call a convention to revise the Constitution; but in November, 1869, they rejected the work of the convention as a whole, by a majority of 66,521. They, however, adopted two amended articles that were separately submitted, the one pertaining to the judiciary, and the other to the property qualification for colored men.

Article 6, relating to the judiciary, was further amended in November, 1872. In November, 1873, there were two amendments submitted to the people by the Legislature, making the most of the judiciary offices above justices of the peace, appointive instead of elective. These were rejected by a majority of over 200,000 votes.

In November, 1874, there were nine amendments and two new articles adopted by the people on submission by the Legislature, by varying majorities. The *first* amendment pertained to voting, the *second* to the Legislature, its power and the eligibility of members; the *third* added Sections 17 to 25 of Article 3, which further define and limit the powers and duties of the Legislature; the *fourth* relates to the eligibility of the governor and lieutenant-governor, and further defines their powers and duties; the *fifth* relates to the state debt and to claims against the state; the *sixth* and *seventh* relate to savings-banks, and added two new sections to Article 8, prohibiting the loaning of the credit of the State, or any county, city, village or town loaning its credit, or the incurring of any debt beyond a certain percentage of the valuation; the *eighth* relates to the salaries of State officers named in the Constitution; the *ninth* amends Article 12, which contains the oath of office. The new Article 15 relates to bribery, and the new Article 16 provides that all amendments shall take effect upon the first day of January following their adoption, except they may provide otherwise.

In November, 1876, Article 5, Section 3, was amended; it relates to the appointment of a Superintendent of Public Works. Section 4 of the same article, relating to the Superintendent of State Prisons, was amended at the same time.

Article 6, Section 6, relating to the Supreme Court, was amended in November, 1879. It is remarkable that the total vote upon this amendment, both for and against, was only 120,909. In November, 1880, amendments were adopted which relate chiefly to local courts in the cities of New York, Brooklyn, and Buffalo.

Sections 3, 5, and 6, of Article 7, relating to canals, were amended in November, 1882.

Section 11 of Article 8 was further amended in November, 1884. This amendment, which relates to the incurring of public debts and the loaning of public credit, was adopted by the nearly unanimous vote of 499,661 for to 9,161 against.

Nov. 2, 1886, the people voted, by a majority of 544,227, that another constitutional convention should be called. The details of legislation necessary to the choice of delegates, fixing the time and place of holding the same, and other important matters, have not yet been provided.

The people voted Nov. 6, 1888, upon an amendment empowering the governor to appoint justices of the Supreme Court, to hear cases on appeal, their decisions to have the same force and effect as if rendered by the Court of Appeals itself. The purpose of this is to relieve the calendar of the latter court, and relieve litigants of some of the long delays that are now necessary to be endured, before their cases are reached and finally adjudicated.

This amendment to Section 6 of Article 6 was adopted by a vote of 598,114 for, to 55,822 opposed; it may be found on page 93.

NOTE. — In the text of the Constitution which follows, one whole article and some sections of other articles are not included, because they were temporary in their application and are now obsolete.

SALARIES OF STATE OFFICERS.

Governor	\$10,000
Lieutenant-Governor	5,000
Secretary of State	5,000
Comptroller	6,000
Treasurer	5,000
Attorney-General	5,000
State Engineer and Surveyor	5,000
Superintendent of Banking	5,000
Superintendent of Insurance	7,000
Superintendent of Prisons	6,000
Superintendent of Public Works	6,000
State Assessors	2,500
Board of Claims	5,000
Superintendent of Public Instruction	5,000
State Dairy Commissioner	3,000
Railroad Commissioners	8,000
Labor Commissioner	2,500
Civil Service Commissioners	2,000
Quarantine Commissioners	2,500
State Arbitrators	3,000
State Commissioner in Lunacy	4,000
Chief Justice of the Court of Appeals	10,500
Justices of the Court of Appeals	10,000
Justices of the Supreme Court	6,000

THE CONSTITUTION OF THE STATE OF
NEW YORK.

Adopted Nov. 3, 1846, as Amended, and in Force Jan. 1, 1889.

WE THE PEOPLE of the State of New York, grateful to Almighty God for our Freedom, in order to secure its blessings, DO ESTABLISH THIS CONSTITUTION.

ARTICLE I. — Individual Rights.

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| <p>1. Disfranchisement.—No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.</p> | 1 |
| <p>2. Trial by jury.—The trial by jury in all cases in which it has been heretofore used, shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.</p> | 2 |
| <p>3 Religious liberty.—The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.</p> | 3 |
| <p>4. Habeas corpus.—The privilege of the writ of <i>habeas corpus</i> shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.</p> | 4 |
| <p>5. Bail, fines.—Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.</p> | 5 |

- 6 **6. Grand jury.**—No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service; and the land and naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace; and in cases of petit larceny, under the regulation of the Legislature), unless on presentment or indictment of a grand jury; and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation.
- 7 **7. Private property and private roads.**—When private property shall be taken for any public use the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited.
- 8 **8. Free speech and press.**—Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury, that the matter charged as libellous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.
- 9 **9. Appropriation bills.**—The assent of two-thirds of the members elected to each branch of the Legislature, shall be requisite to every bill appropriating the public moneys or property for local or private purposes.
- 10 **10. Petitions, divorces, lotteries.**—No law shall be passed abridging the right of the people peaceably to assemble and to

petition the government, or any department thereof, nor shall any divorce be granted, otherwise than by due judicial proceedings; nor shall any lottery hereafter be authorized or any sale of lottery tickets allowed within this State.

11. Property in lands. — The people of this State, in their right of sovereignty are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State: and all lands the title to which shall fail, from a defect of heirs, shall revert, or escheat to the people. 11

12. Fendal tenures. — All feudal tenures of every description, with all their incidents, are declared to be abolished, saving however all rents and services certain which at any time heretofore have been lawfully created or reserved. 12

13. Allodial tenure. — All lands within this State are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates. 13

14. Limit of leases. — No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid. 14

15. Fines, quarter sales. — All fines, quarter sales, or other like restraints upon alienation reserved in any grant of land, hereafter to be made, shall be void. 15

16. Indian lands. — No purchase or contract for the sale of lands in this State made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority, and with the consent of the Legislature. 16

17. Codification of laws. — Such parts of the common law, and of the acts of the Legislature of the Colony of New York, as together did form the law of the said Colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the Congress of the said Colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the Legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all such parts of the common law and such of the said acts, or parts thereof, as are repugnant to 17

this constitution, are hereby abrogated; and the Legislature, at its first session after the adoption of this constitution, shall appoint three commissioners, whose duty it shall be to reduce into a written and systematic code the whole body of the law of this State, or so much and such parts thereof as to the said commissioners shall seem practicable and expedient. And the said commissioners shall specify such alterations and amendments therein as they shall deem proper, and they shall at all times make reports of their proceedings to the Legislature, when called upon to do so; and the Legislature shall pass laws regulating the tenure of office, the filling of vacancies therein, and the compensation of the said commissioners, and shall also provide for the publication of the said code, prior to its being presented to the Legislature for adoption.

- 18 **18. Grants of land.**—All grants of land within the State, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this constitution shall affect any grants of land within this State, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the State, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

ARTICLE II. — Voters.

- 19 **1. Qualifications.**—Every male citizen of the age of twenty-one years who shall have been a citizen for ten days and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States,

in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

2. Bribery.—No person who shall receive, expect or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The Legislature, at the session thereof next after the adoption of this section, shall, and from time to time thereafter may, enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

3. Residence.—For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house, or other asylum, at public expense; nor while confined in any public prison.

4. Enactments.—Laws shall be made for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established.

5. Election by ballot.—All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

ARTICLE III.—The Legislature.

- 24 **1. Two Houses.**—The legislative power of this State shall be
vested in a Senate and Assembly.
- 25 **2. How constituted.**—The Senate shall consist of thirty-two
members, and the Senators shall be chosen for two years. The
Assembly shall consist of one hundred and twenty-eight members,
who shall be annually elected.
- 26 **3. Senate districts.**—The Senate shall be divided into thirty-
two districts, to be called Senate districts, each of which shall
choose one Senator. The districts shall be numbered from one to
thirty-two inclusive.¹
- 28 **4. How altered.**—An enumeration of the inhabitants of the
State shall be taken, under the direction of the Legislature, in the
year one thousand eight hundred and fifty-five, and at the end of
every ten years thereafter; and the said districts shall be so altered
by the Legislature, at the first session after the return of every
enumeration, that each Senate district shall contain, as nearly as
may be, an equal number of inhabitants, excluding aliens and
persons of color not taxed; and shall remain unaltered until the
return of another enumeration, and shall at all times consist of
contiguous territory; and no county shall be divided in the for-
mation of a Senate district, except such county shall be equitably
entitled to two or more senators.
- 29 **5. Assembly districts.**—The Assembly shall consist of one
hundred and twenty-eight members, elected for one year. The
Members of Assembly shall be apportioned among the several
counties of the State, by the Legislature, as nearly as may be,
according to the number of their respective inhabitants, excluding
aliens, and shall be chosen by single districts.² The assembly
districts shall remain as at present organized, until after the enu-
meration of the inhabitants of the State, in the year eighteen hun-
dred and seventy-five. The Legislature, at its first session after
the return of every enumeration, shall apportion the Members of
Assembly among the several counties of the State, in manner afore-
said, and the board of supervisors in such counties as may be
entitled under such apportionment, to more than one member,

¹ For list of Senate Districts, see pages 95, 96.

² For existing Assembly Districts, see page 96.

except the city and county of New York, and in said city and county the board of aldermen of said city shall assemble at such time as the Legislature making such apportionment shall prescribe, and divide their respective counties into Assembly districts, each of which districts shall consist of convenient and contiguous territory, equal to the number of Members of Assembly to which such counties shall be entitled, and shall cause to be filed in the offices of the Secretary of State and the clerks of their respective counties a description of such districts, specifying the number of each district and the population thereof, according to the last preceding enumeration as near as can be ascertained, and the apportionment and districts shall remain unaltered until another enumeration shall be made as herein provided. No town shall be divided in the formation of Assembly districts. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the Assembly, and no new county shall be hereafter erected, unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, be entitled to a member. But the Legislature may abolish the said county of Hamilton, and annex the territory thereof to some other county or counties. Nothing in this section shall prevent division at any time of counties and towns, and the erection of new towns and counties by the Legislature.

6. Salary of members.— Each member of the Legislature shall receive for his services an annual salary of one thousand and five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel, in going to and returning from their place of meeting, once in each session, on the most usual route. Senators, when the Senate alone is convened in extraordinary session, or when serving as members of the Court for the Trial of Impeachments, and such members of the Assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

7. Prohibitions.— No member of the Legislature shall receive any civil appointment within this State, or the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any city government during the time for which he shall have been elected; and all such appointments and all votes

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given for any such member for any such office or appointment shall be void.

32 **8. Disqualifications.** — No person shall be eligible to the Legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of congress, a civil or military officer under the United States, or an officer under any city government; and if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

33 **9. Time of election.** — The elections of Senators and Members of Assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature.

34 **10. Powers of each house.** — A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers; and the senate shall choose a temporary president, when the Lieutenant Governor shall not attend as president, or shall act as Governor.

35 **11. Journals.** — Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

36 **12. Privilege.** — For any speech or debate in either house of the Legislature, the members shall not be questioned in any other place.

37 **13. Bills.** — Any bill may originate in either house of the Legislature, and all bills passed by one house may be amended by the other.

38 **14. Enacting clause.** — The enacting clause of all bills shall be "The people of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

39 **15. Majority.** — No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the Legislature, and the question upon the final passage shall be taken

immediately upon its last reading, and the yeas and nays entered on the journal.

16. Private bills.—No private or local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title. 40

17. Restrictions.—No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act. 41

18. Private and local bills.—The Legislature shall not pass a private or local bill in any of the following cases: 42

Changing the names of persons. 43

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands. 44

Locating or changing county seats. 45

Providing for changes of venue in civil or criminal cases. 46

Incorporating villages. 47

Providing for election of members of boards of supervisors. 48

Selecting, drawing, summoning or impaneling grand or petit jurors. 49

Regulating the rate of interest on money. 50

The opening and conducting of elections or designating places of voting. 51

Creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed. 52

Granting to any corporation, association or individual the right to lay down railroad tracks. 53

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever. 54

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the State. 55

The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in 56

value the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the general term of the supreme court, in the district in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

57 **19. Private claims.**—The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.

58 **20. Tax bills.**—Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

59 **21.** On the final passage, in either house of the Legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

60 **22. Supervisors.**—There shall be in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members, and elected in such manner, and for such period, as is or may be provided by law. In any such city the duties and powers of a board of supervisors may be devolved upon the common council or board of aldermen thereof.

61 **23. Local legislation.**—The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State, such further powers of local legislation and administration as the legislature may from time to time deem expedient.

62 **24. Compensation.**—The Legislature shall not, nor shall the common council of any city nor any board of supervisors, grant

any extra compensation to any public officer, servant, agent or contractor.

25. Restrictions.— Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be reported to the Legislature by Commissioners who have been appointed pursuant to law to revise the Statutes.

ARTICLE IV.—Executive Department.

1. Executive power.—The executive power shall be vested in a Governor, who shall hold his office for three years; a Lieutenant-Governor shall be chosen at the same time, and for the same term. The Governor and Lieutenant-Governor elected next preceding the time when this section shall take effect shall hold office during the term for which they were elected.

2. Eligibility.—No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years, next preceding his election, a resident of this State.

3. Election.—The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor the two houses of the Legislature, at its next annual session, shall, forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor.

4. Duties of governor.—The Governor shall be Commander-in-Chief of the military and naval forces of the State. He shall have power to convene the Legislature (or the Senate only) on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the Governor may recommend for consideration. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faith-

fully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

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5. Pardons.—The Governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offences except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

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6. Power may devolve on Lieutenant-Governor.—In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the State.

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7. Duties of Lieutenant-Governor.—The Lieutenant-Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be president of the Senate, but shall have only a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the president of the Senate shall act as Governor until the vacancy be filled, or the disability shall cease.

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8. Salary.—The Lieutenant-Governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to any other compensation, fee or perquisite for any duty or service he may be required to perform by the constitution or by law.

9. The veto.—Every bill which shall have passed the Senate and Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent together with the objections to the other house by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the Governor. In all such cases the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the Legislature, unless approved by the Governor within thirty days after such adjournment. If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

ARTICLE V. — Other State Officers.

1. Secretary of State, Comptroller, Treasurer, Attorney-General.—The Secretary of State, Comptroller, Treasurer and

Attorney-General shall be chosen at a general election, and shall hold their offices for two years. Each of the officers in this article named (except the Speaker of the Assembly) shall, at stated times during his continuance in office, receive for his services a compensation, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive, to his use, any fees or perquisites of office, or other compensation.

74 **2. Engineer and Surveyor.** — A State Engineer and Surveyor shall be chosen at a general election, and shall hold his office two years; but no person shall be elected to said office who is not a practical engineer.

75 **3. Superintendent of Public Works.** — A Superintendent of Public Works shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office until the end of the term of the Governor by whom he was nominated, and until his successor is appointed and qualified. He shall receive a compensation to be fixed by law. He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof. He shall be charged with the execution of all laws relating to the repair and navigation of the canals, and also of those relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the State Engineer and Surveyor; subject to the control of the Legislature, he shall make the rules and regulations for the navigation or use of the canals. He may be suspended or removed from office by the Governor, whenever, in his judgment, the public interest shall so require; but in case of the removal of such Superintendent of Public Works from office, the Governor shall file with the Secretary of State a statement of the cause of such removal, and shall report such removal, and the cause thereof, to the Legislature at its next session. The Superintendent of Public Works shall appoint not more than three assistant superintendents, whose duties shall be prescribed by him, subject to modification by the Legislature, and who shall receive for their services a compensation to be fixed by law. They shall hold their office for three years, subject to suspension or removal by the Superintendent of Public Works, whenever, in his judgment, the public interest shall so require. Any vacancy in the office of any such assistant-superintendent shall be filled for the remainder of the term for which he was appointed by the Superin-

tendent of Public Works; but in case of the suspension or removal of any such assistant-superintendent by him, he shall at once report to the Governor, in writing, the cause of such removal. All other persons employed in the care and management of the canals, except collectors of tolls, and those in the department of the State Engineer and Surveyor, shall be appointed by the Superintendent of Public Works, and be subject to suspension or removal by him. The office of canal commissioner is abolished from and after the appointment and qualification of the Superintendent of Public Works, until which time the Canal Commissioners shall continue to discharge their duties as now provided by law. The Superintendent of Public Works shall perform all the duties of the Canal Commissioners, and board of Canal Commissioners, as now declared by law, until otherwise provided by the Legislature. The Governor, by and with the advice and consent of the Senate, shall have power to fill vacancies in the office of Superintendent of Public Works; if the Senate be not in session, he may grant commissions which shall expire at the end of the next succeeding session of the Senate.

4. Superintendent of State Prisons. — A Superintendent of State Prisons shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office for five years unless sooner removed; he shall give security in such amount, and with such sureties as shall be required by law for the faithful discharge of his duties; he shall have the superintendence, management and control of State Prisons, subject to such laws as now exist or may hereafter be enacted; he shall appoint the agents, wardens, physicians, and chaplains of the prisons. The agent and warden of each prison shall appoint all other officers of such prison, except the clerk, subject to the approval of the same by the Superintendent. The Comptroller shall appoint the clerks of the prisons. The Superintendent shall have all the powers and perform all the duties not inconsistent herewith, which have heretofore been had and performed by the Inspectors of State Prisons; and from and after the time when such Superintendent of State Prisons shall have been appointed and qualified, the office of Inspector of State Prisons shall be and hereby is abolished. The Governor may remove the Superintendent for cause at any time, giving to him a copy of the charges against him, and an opportunity to be heard in his defence.

5. Commissioners of the Land Office. — The Lieutenant-Governor, Speaker of the Assembly, Secretary of State, Comp-

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troller, Treasurer, Attorney General, and State Engineer and Surveyor, shall be the Commissioners of the Land Office. The Lieutenant Governor, Secretary of State, Comptroller, Treasurer, and Attorney General shall be the Commissioners of the Canal Fund. The Canal Board shall consist of the Commissioners of the Canal Fund, the State Engineer and Surveyor, and the Canal Commissioners.

78 **6. Powers and duties.**—The powers and duties of the respective Boards, and of the several officers in this article mentioned, shall be such as now are or hereafter may be prescribed by law.

79 **7. Treasurer may be suspended.**—The Treasurer may be suspended from office by the Governor, during the recess of the Legislature, and until thirty days after the commencement of the next session of the Legislature, whenever it shall appear to him that such Treasurer has, in any particular, violated his duty. The Governor shall appoint a competent person to discharge the duties of the office during such suspension of the Treasurer.

80 **8. Certain offices abolished.**—All offices for the weighing, gauging, measuring, culling or inspecting any merchandise, produce, manufacture or commodity whatever, are hereby abolished, and no such office shall hereafter be created by law; but nothing in this section contained shall abrogate any office created for the purpose of protecting the public health or the interests of the State in its property, revenue, tolls, or purchases, or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

ARTICLE VI. — Judiciary.

81 **1. Impeachment.**—The Assembly shall have the power of impeachment by a vote of a majority of all the members elected. The court for the trial of impeachments shall be composed of the President of the Senate, the Senators, or a major part of them, and the Judges of the Court of Appeals, or the major part of them. On the trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been preferred to the Senate, until he shall have been acquitted. Before the trial of an impeachment the members of the court shall take an oath of affirmation, truly and impartially

to try the impeachment, according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

2. Court of Appeals.—There shall be a Court of Appeals, composed of a Chief Judge and six associate Judges, who shall be chosen by the electors of the State, and shall hold their office for the term of fourteen years from and including the first day of January next after their election. At the first election of judges, under this Constitution, every elector may vote for the Chief and only four of the associate Judges. Any five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have the appointment, with the power of removal, of its reporter and clerk, and of such attendants as may be necessary.

3. Vacancies filled.—When a vacancy shall occur, otherwise than by expiration of term, in the office of Chief or associate Judge of the Court of Appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the Governor by and with the advice and consent of the Senate, if the Senate shall be in session, or if not, the Governor alone may appoint to fill such vacancy. If any such appointment of Chief Judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such case, the person appointed Chief Judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as Chief Judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

6. Supreme Court.—There shall be the existing Supreme Court, with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law; and it shall be composed of the justices now in

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office, with one additional justice, to be elected as hereinafter provided, who shall be continued during their respective terms, and of their successors. The existing judicial districts of the State are continued until changed pursuant to this section.¹ Five of the justices shall reside in the district in which is the city of New York, five in the second judicial district, and four in each of the other districts. The Legislature may alter the districts, without increasing the number, once after every enumeration, under this Constitution, of the inhabitants of the State.²

87 **7. General terms.** — At the first session of the Legislature, after the adoption of this article, and from time to time thereafter as may be necessary, but not oftener than once in five years, provisions shall be made for organizing, in the Supreme Court, not more than four general terms thereof, each to be composed of a presiding justice, and not more than three other justices, who shall be designated, according to law, from the whole number of justices. Each presiding justice shall continue to act as such during his term of office. Provision shall be made by law for holding the general terms of each judicial district. Any justice of the Supreme Court may hold special terms and Circuit Courts, and may preside in Courts of Oyer and Terminer, in any county.

88 **8. Review of decisions.** — No judge or justice shall sit, at a general term of any court; or in the Court of Appeals, in review of a decision made by him, or by any court of which he was at the time a sitting member. The testimony in equity cases shall be taken in like manner as in cases at law; and except as herein otherwise provided, the Legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and equity, that they have heretofore exercised.

89 **9. Vacancies filled.** — When a vacancy shall occur, otherwise than by expiration of term, in the office of Justice of the Supreme Court, the same shall be filled for a full term, at the next general election happening not less than three months after such vacancy occurs; and until any vacancy shall be so filled, the Governor by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session, the Governor may appoint to fill such vacancy. Any such appointment shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

¹ For judicial districts, as now constituted, see pages 97, 98.

² For amendment to this section, adopted November, 1888, see pages 93, 94.

10. Prohibitions.—The judges of the Court of Appeals, and the justices of the Supreme Court, shall not hold any other office or public trust. All votes for any of them for any other than a judicial office, given by the Legislature or the people, shall be void.

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11. Removal.—Judges of the Court of Appeals, and justices of the Supreme Court, may be removed by concurrent resolution of both houses of the Legislature, if two-thirds of all the members elected to each house concur therein. All judicial officers, except those mentioned in this section, and except Justices of the Peace, and Judges and Justices of inferior courts not of record, may be removed by the Senate, on the recommendation of the Governor, if two-thirds of all the members elected to the Senate concur therein. But no removal shall be made, by virtue of this section, unless the cause thereof be entered on the journals, nor unless the party complained of shall have been served with a copy of the charges against him, and shall have had an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal.

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12. City courts.—The superior court in the city of New York, the court of common pleas for the city and county of New York, the superior court of Buffalo, and the city court of Brooklyn are continued with the powers and jurisdiction they now severally have and such further civil and criminal jurisdiction as may be conferred by law. The superior court of New York shall be composed of the six judges in office at the adoption of this article, and their successors. The court of common pleas of New York, of the three judges then in office and their successors, and three additional judges. The superior court of Buffalo, of the judges now in office, and their successors; and the city court of Brooklyn, of such number of judges, not exceeding three, as may be provided by law. The judges of said courts in office at the adoption of this article are continued until the expiration of their terms. A chief judge shall be appointed by the judges of each of said courts from their own number, who shall act as such during his official term. Vacancies in the office of the judges named in this section, occurring otherwise than by expiration of term, shall be filled in the same manner as vacancies in the supreme court. The legislature may provide for detailing judges of the superior court and court of common pleas of New York to hold circuits and special terms of

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the supreme court in that city; and for detailing judges of the city court of Brooklyn, to hold circuits and special terms of the supreme court in Kings county, as the public interest may require.

93 **13. Election.**—Justices of the supreme court shall be chosen by the electors of their respective judicial districts. Judges of all the courts mentioned in the last preceding section shall be chosen by the electors of the cities respectively in which said courts are instituted. The official terms of the said justices and judges who shall be elected after the adoption of this article shall be fourteen years from and including the first day of January next after their election. But no person shall hold the office of justice or judge of any court longer than until and including the last day of December next after he shall be seventy years of age. The compensation of every judge of the court of appeals, and of every justice of the supreme court whose term of office shall be abridged pursuant to this provision, and who shall have served as such judge or justice ten years or more, shall be continued during the remainder of the term for which he was elected.

94 **14. Salaries.**—The judges and justices hereinbefore mentioned shall receive for their services a compensation to be established by law, which shall not be diminished during their official terms. Except the Judges of the Court of Appeals and the Justices of the Supreme Court, they shall be paid, and the expenses of their courts defrayed, by the cities or counties in which such courts are instituted, as shall be provided by law.

95 **15. County courts.**—The existing county courts are continued, and the judges thereof in office at the adoption of this article, shall hold their offices until the expiration of their respective terms. Their successors shall be chosen by the electors of the counties, for the term of six years. The County Courts shall have the powers and jurisdiction they now possess, until altered by the legislature. They shall also have original jurisdiction in all cases where the defendants reside in the county and in which the damages claimed shall not exceed one thousand dollars; and also such appellate jurisdiction as shall be provided by law, subject, however, to such provision as shall be made by law for the removal of causes into the Supreme Court. They shall also have such other original jurisdiction as shall, from time to time, be conferred upon them by the Legislature. The county Judge, with two Justices of the Peace, to be designated according to law, may hold Courts of Ses-

sions, with such criminal jurisdiction as the Legislature shall prescribe, and he shall perform such other duties as may be required by law. His salary, and the salary of the Surrogate when elected as a separate officer, shall be established by law, payable out of the County Treasury, and shall not be diminished during his term of office. The Justices of the Peace shall be paid, for services in Courts of Sessions, a per diem allowance out of the County Treasury. The County Judge shall also be Surrogate of his county; but in counties having a population exceeding forty thousand, the Legislature may provide for the election of a separate officer to be Surrogate, whose term of office shall be the same as that of the County Judge. The County Judge of any county may preside at Courts of Sessions, or hold County Courts, in any other county, except New York and Kings, when requested by the judge of such other county.

16. Local judges. — The Legislature may, on application of the Board of Supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of County Judge and of Surrogate, in cases of their inability, or of a vacancy, and to exercise such other powers in special cases as may be provided by law.

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18. Justices of the Peace. — The electors of the several towns shall, at their annual town meeting, and in such manner as the Legislature may direct, elect Justices of the Peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the Peace, and Judges or Justices of inferior courts not of record and their clerks may be removed, after due notice and an opportunity of being heard by such courts as may be prescribed by law, for causes to be assigned in the order of removal. Justices of the Peace and district court justices shall be elected in the different cities of this State, in such manner, and with such powers, and for such terms, respectively, as shall be prescribed by law; all other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, shall be chosen by the electors of cities, or appointed by some local authorities thereof.

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19. Local courts. — Inferior local courts of civil and criminal jurisdiction may be established by the Legislature; and, except as

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herein otherwise provided, all judicial officers shall be elected or appointed at such times, and in such manner, as the Legislature may direct.

100 **20. Clerks.**—Clerks of the several counties shall be Clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. The Clerk of the Court of Appeals shall keep his office at the seat of government. His compensation shall be fixed by law and paid out of the public treasury.

101 **21. Fees.**—No judicial officer, except Justices of the Peace, shall receive to his own use any fees or perquisites of office; nor shall any Judge of the Court of Appeals, Justice of the Supreme Court, or Judge of a Court of Record in the cities of New York, Brooklyn or Buffalo, practise as an attorney or counsellor in any Court of Record in this State, or act as referee.

102 **22. Direct review.**—The Legislature may authorize the judgments, decrees and decisions of any Court of Record of original civil jurisdiction, established in a city, to be removed for review, directly into the Court of Appeals.

103 **23. Publication of statutes, etc.**—The Legislature shall provide for the speedy publication of all statutes, and also for the appointment by the Justices of the Supreme Court designated to hold general terms of a reporter of the decisions of that court. All laws and judicial decisions shall be free for publication by any person.

106 **26. Special sessions.**—Courts of special sessions shall have such jurisdiction of offences of the grade of misdemeanors as may be prescribed by law.

107 **27. Surrogates' courts.**—For the relief of Surrogates' Courts, the Legislature may confer upon Courts of Record, in any county having a population exceeding four hundred thousand, the powers and jurisdiction of Surrogates, with authority to try issues of fact by jury in probate causes.

109 **28. Additional justices.**—The Legislature, at the first session thereof after the adoption of this amendment, shall provide for organizing in the supreme court not more than five general terms thereof; and for the election at the general election next after the adoption of this amendment, by the electors of the judicial districts mentioned in this section, respectively, of not more than two justices of the supreme court in addition to the justices

of that court now in office in the first, fifth, seventh and eighth, and not more than one justice of that court in the second, third, fourth and sixth judicial districts. The justices so elected shall be invested with their offices on the first Monday of June next after their election.

ARTICLE VII. — State Debts.

1. Canal debt. — After paying the expenses of collection, superintendence and ordinary repairs, there shall be appropriated and set apart in each fiscal year out of the revenues of the State Canals, in each year, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of one million and three hundred thousand dollars until the first day of June, one thousand eight hundred and fifty-five, and from that time the sum of one million and seven hundred thousand dollars in each fiscal year, as a sinking fund to pay the interest and redeem the principal of that part of the State debt called the canal debt, as it existed at the time first aforesaid, and including three hundred thousand dollars then to be borrowed, until the same shall be wholly paid; and the principal and income of the said sinking fund shall be sacredly applied to that purpose.

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2. General fund debt. — After complying with the provisions of the first section of this article, there shall be appropriated and set apart out of the surplus revenues of the State Canals, in each fiscal year, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of three hundred and fifty thousand dollars, until the time when a sufficient sum shall have been appropriated and set apart, under the said first section, to pay the interest and extinguish the entire principal of the Canal debt; and after that period, then the sum of one million and five hundred thousand dollars in each fiscal year, as a sinking fund, to pay the interest and redeem the principal of that part of the State debt called the General Fund Debt, including the debt for loans of the State credit to railroad companies which have failed to pay the interest thereon, and also the contingent debt on State stocks loaned to incorporated companies which have hitherto paid the interest thereon, whenever and as far as any part thereof may become a charge on the Treasury or General Fund, until the same shall be wholly paid; and the principal and income of the said last-

111

mentioned sinking fund shall be sacredly applied to the purpose aforesaid; and if the payment of any part of the moneys to the said sinking fund shall at any time be deferred, by reason of the priority recognized in the first section of this article, the sum so deferred, with quarterly interest thereon, at the then current rate, shall be paid to the last-mentioned sinking fund, as soon as it can be done consistently with the just rights of the creditors holding said Canal Debt.

112

3. The canals.—The first and second sections of this article having been fully complied with, no tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals, and the owners and masters thereof, shall be subject to such laws and regulations as have been or may hereafter be enacted concerning the navigation of the canals. The legislature shall annually, by equitable taxes, make provision for the expenses of the superintendence and repairs of the canals. The canal debt contracted under the section hereby amended, which on the first day of October, eighteen hundred and eighty, amounted to eight million nine hundred and eighty-two thousand two hundred dollars, shall continue to be known as the “canal debt, under article seven, section three of the constitution;” and the sinking fund applicable to the payment thereof, together with the contributions to be made thereto, shall continue to be known as the “canal debt sinking fund,” and the principal and interest of said debt shall be met as provided in the fifth section of this article. All contracts for work or materials on any canal shall be made with the person who shall offer to do or provide the same at the lowest price with adequate security for their performance. No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the canal board may, upon the application of the contractor, cancel such contract.

113

4. State loans.—The claims of the State against any incorporated company to pay the interest and redeem the principal of the stock of the State loaned or advanced to such company, shall be fairly enforced, and not released or compromised; and the moneys arising from such claim shall be set apart, and applied as part of the sinking fund provided in the second section of this article. But the time limited for the fulfilment of any condition of any release or compromise heretofore made or provided for, may be extended by law.

5. Taxation. — There shall annually be imposed and levied a tax which shall be sufficient to pay the interest and extinguish the principle of the canal debt mentioned in the third section of this article, as the same shall become due and payable, and the proceeds of such tax shall, in each fiscal year, be appropriated and set apart for the sinking fund constituted for the payment of the principal and interest of the aforesaid debt. But the legislature may, in its discretion, impose for the fiscal year, beginning on the first day of October, eighteen hundred and eighty-three, a state tax on each dollar of the valuation of the property in this State which may by law then be subject to taxation, sufficient, with the accumulations of the sinking fund applicable thereto, to pay in full both the principal and interest of the canal debt before mentioned, and the proceeds of such tax shall be appropriated and set apart for the sinking fund constituted for the payment of the principal and interest of said debt. In the event of such action by the legislature, then the legislature shall, under the law directing the assessment and levy of such tax, make such provision for the retirement of the canal debt as it shall deem equitable and just to the creditors of the state.

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6. Canals. — The legislature shall not sell, lease, or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black River canal, but they shall remain the property of the state and under its management forever. All funds that may be derived from any lease, sale, or other disposition of any canal shall be applied in payment of the canal debt mentioned in the third section of this article.

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7. Salt Springs. — The Legislature shall never sell or dispose of the Salt Springs belonging to this State. The lands contiguous thereto and which may be necessary and convenient for the use of the Salt Springs, may be sold by authority of law and under the direction of the Commissioners of the Land Office, for the purpose of investing the moneys arising therefrom in other lands, alike convenient; but by such sale and purchase the aggregate quantity of these lands shall not be diminished.

116

8. Appropriation bills. — No moneys shall ever be paid out of the Treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation,

117

shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

118 **9. State credit.**—The credit of the State shall not, in any manner, be given or loaned to, or in aid of any individual, association or corporation.

119 **10. State debts.**—The State may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts, but such debts, direct and contingent, singly or in the aggregate, shall not, at any time, exceed one million of dollars; and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever.

120 **11. State debts.**—In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

121 **12. Legislative power limited.**—Except the debts specified in the tenth and eleventh sections of this article, no debts shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by a law, for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay the interest on such debt as it falls due and also to pay and discharge the principal of such debt within eighteen years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it, at such election. On the final passage of such bill in either house of the Legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

122 The Legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability

which may have been contracted, in pursuance of such law, shall remain in force and be irrevocable, and be annually collected, until the proceeds thereof shall have made the provision hereinbefore specified to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating such debt or liability shall be applied to the work or object specified in the act authorizing such debt or liability, or for the repayment of such debt or liability, and for no other purpose whatever. No such law shall be submitted to be voted on, within three months after its passage, or at any general election, when any other law or any bill, or any amendment to the Constitution shall be submitted to be voted for or against.

13. Sinking funds. — The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the State shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.

14. Claims barred. — Neither the Legislature, Canal Board, Canal Appraisers, nor any person or persons acting in behalf of the State, shall audit, allow, or pay any claim which, as between citizens of the State, would be barred by lapse of time. The limitation of existing claims shall begin to run from the adoption of this section; but this provision shall not be construed to revive claims already barred by existing statutes, nor to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claims duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

ARTICLE VIII. — Corporations.

1. How created. — Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

2. Debts. — Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

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127 **3. Definition.** — The term corporations as used in this article shall be construed to include all association and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

128 **4. Bank charters.** — The Legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

129 **5. Specie payments.** — The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association or corporation issuing bank notes of any description.

130 **6. Registry of bills.** — The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

131 **7. Stockholders responsible.** — The stockholders in every corporation and joint-stock association for banking purposes issuing bank notes or any kind of paper credits to circulate as money, after the first day of January, one thousand eight hundred and fifty, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind, contracted after the said first day of January, one thousand eight hundred and fifty.

132 **8. Insolvency.** — In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

133 **9. Cities and villages.** — It shall be the duty of the Legislature to provide for the organization of cities and incorporated

villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments, and in contracting debt by such municipal corporations.

10. State credit.—Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or private undertaking. This section shall not, however, prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper. Nor shall it apply to any fund or property now held, or which may hereafter be held by the State for educational purposes.

11. Limitation of power.—No county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become, directly or indirectly, the owner of stock in or bonds of any association or corporation, nor shall any such county, city, town or village be allowed to incur any indebtedness, except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor, as may be authorized by law. No county containing a city of over one hundred thousand inhabitants, or any such city, shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No such county or such city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide

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for the supply of water, but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

ARTICLE IX. — School Funds.

- 136 **1.** The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of common schools; the revenue of the said literature fund shall be applied to the support of academies, and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund.

ARTICLE X. — County Officers.

- 137 **1. Election of certain officers.** — Sheriffs, clerks of counties, including the Register and Clerk of the city and county of New York, Coroners and District Attorneys, shall be chosen, by the electors of the respective counties, once in every three years and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law to renew their security, from time to time, and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff. The Governor may remove any officer in this section mentioned, within the term for which he shall have been elected, giving to such officer a copy of the charges against him, and an opportunity of being heard in his defence.

2. Choosing other officers.—All county officers whose election or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties or appointed by the Boards of Supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct. 138

3. Term of office.—When the duration of any office is not provided by this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment. 139

4. Time of election.—The time of electing all officers named in this article shall be prescribed by law. 140

5. Vacancies.—The Legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy. 141

6. Political year.—The political year and Legislative term shall begin on the first day of January; and the Legislature shall, every year, assemble on the first Tuesday in January, unless a different day shall be appointed by law. 142

7. Removal.—Provision shall be made by law for the removal for misconduct or malversation in office of all officers (except judicial) whose powers and duties are not local or legislative and who shall be elected at general elections, and also for supplying vacancies created by such removal. 143

8. Offices deemed vacant.—The Legislature may declare the cases in which any office shall be deemed vacant when no provision is made for that purpose in this Constitution. 144

9. Salaries.—No officer whose salary is fixed by the Constitution shall receive any additional compensation. Each of the other State officers named in the Constitution shall, during his continu- 145

ance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use, any fees or perquisites of office or other compensation.

ARTICLE XI. — Militia.

146 **1. Bearing arms.**—The militia of this State shall, at all times hereafter, be armed and disciplined and in readiness for service; but all such inhabitants of this State of any religious denomination whatever as from scruples of conscience may be averse to bearing arms, shall be excused therefrom upon such conditions as shall be prescribed by law.

147 **2. Officers.**—Militia officers shall be chosen, or appointed, as follows: Captains, subalterns, and non-commissioned officers shall be chosen by the written votes of the members of their respective companies. Field officers of regiments and separate battalions by the written votes of the commissioned officers of the respective regiments and separate battalions; Brigadier-Generals and Brigade Inspectors by the field officers of their respective brigades; Major-Generals, Brigadier-Generals and commanding officers of regiments or separate battalions, shall appoint the staff officers to their respective divisions, brigades, regiments or separate battalions.

148 **3. Appointments.**—The Governor shall nominate, and with the consent of the Senate, appoint all Major-Generals and the Commissary-General. The Adjutant-General and other Chiefs of staff departments, and the Aides-de-Camp of the Commander-in-Chief, shall be appointed by the Governor, and their commissions shall expire with the time for which the Governor shall have been elected. The Commissary-General shall hold his office for two years. He shall give security for the faithful execution of the duties of his office in such manner and amount as shall be prescribed by law.

149 **4. Elections.**—The Legislature shall, by law, direct the time and manner of electing militia officers, and of certifying their elections to the Governor.

150 **5. Commissions.**—The commissioned officers of the militia shall be commissioned by the Governor; and no commissioned officer shall be removed from office, unless by the Senate on the recommendation of the Governor, stating the grounds on which

such removal is recommended, or by the decision of a court-martial, pursuant to law. The present officers of the militia shall hold their commissions subject to removal, as before provided.

6. Changes. — In case the mode of election and appointment of militia officers hereby directed, shall not be found conducive to the improvement of the militia, the Legislature may abolish the same, and provide by law for their appointment and removal, if two-thirds of the members present in each house shall concur therein.

ARTICLE XII. — Oath of Office.

1. Form prescribed. — Members of the Legislature (and all officers, executive and judicial, except such inferior officers as shall be by law exempted), shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of _____ according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote," and no other oath, declaration or test, shall be required as a qualification for any office of public trust.

ARTICLE XIII. — Amendments.

1. How made. — Any amendment or amendments to this Constitution may be proposed in the Senate and Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next

general election of Senators, and shall be published for three months previous to the time of making such choice, and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the Legislature, voting thereon, such amendment or amendments shall become part of the Constitution.

155 **3. Conventions, how called.** — At the general election to be held in the year eighteen hundred and sixty-six, and in each twentieth year thereafter, and also at such time as the Legislature may by law provide, the question, "Shall there be a convention to revise the constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the Legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the Legislature at its next session shall provide by law for the election of delegates to such convention.

ARTICLE XV. — Bribery and Corruption.

156 **1.** Any person holding office under the laws of this State, who, except in payment of his legal salary, fees or perquisites, shall receive or consent to receive, directly or indirectly, any thing of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offence of bribery.

157 **2.** Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or

promise a bribe, if it be rejected by the officer to whom it was tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

3. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor. 158

4. Any District Attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of this article which may come to his knowledge shall be removed from office by the Governor, after due notice and an opportunity of being heard in his defence. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this State, within such county, or of receiving bribes by any such person in said county, shall be a charge against the State, and their payment by the State shall be provided for by law. 159

ARTICLE XVI.—When Amendments Take Effect.

1. All amendments to the Constitution shall be in force from and including the first day of January succeeding the election at which the same were adopted, except when otherwise provided by such amendments. 160

AN AMENDMENT TO SECTION 6 OF ARTICLE VI. OF THE CONSTITUTION.

Whenever, and as often as there shall be such an accumulation of causes on the Calendar of the Court of Appeals that the public interests require a more speedy disposition thereof, the said Court may certify such fact to the Governor, who shall thereupon designate seven Justices of the Supreme Court to act as Associate Judges, for the time being, of the Court of Appeals, and to form a second division of said Court, and who shall act as such until all the causes upon the said Calendar at the time of the making of such certificate are determined, or the Judges of said Court, elected as such, shall certify to the Governor that said causes are substantially disposed of, and on receiving such certificate, the Governor may declare said second division dissolved and the designation of Justices to serve thereon shall thereupon expire. The second division of said court, hereby authorized to be constituted, shall be competent to deter-

mine any causes on said Calendar which may be assigned to such division by the Court composed of Judges elected to serve in the Court of Appeals, and that Court may at any time before judgment direct any of the causes so assigned to be restored to its Calendar for hearing and decision. The rules of practice in both divisions shall be the same. Five members of the court shall be sufficient to form a quorum for said second division and the concurrence of four shall be necessary to a decision. The judges composing said second division shall appoint from their number a Chief Judge of such division, and the Governor may from time to time, when in his judgment the public interests may require, change the designation of any Justice of the Supreme Court to serve in such division, and may fill any vacancy occurring therein, by designating any Justice of the Supreme Court to fill such vacancy. Said second division may appoint and remove a crier and such attendants as may be necessary. The judges composing said second division shall not during the time of their service therein exercise any of the functions of Justices of the Supreme Court, nor receive any salary or compensation as such Justices, but in lieu thereof shall during such term of service receive the same compensation as the Associate Judges of the Court of Appeals. They shall have power to appoint the times and places of their sessions, within this State, and the Clerk and Reporter of the Court of Appeals shall be Clerk and Reporter of said second division.

SENATE DISTRICTS.

- I. Queens and Suffolk.
- II. The First, Second, Fifth, Sixth, Eighth, Ninth, Tenth, Twelfth, and Twenty-second wards of Brooklyn, and the towns of Flatbush, Gravesend, and New Utrecht.
- III. The Third, Fourth, Seventh, Eleventh, Thirteenth, Nineteenth, Twentieth, Twenty-first, and Twenty-third wards of Brooklyn.
- IV. The Fourteenth, Fifteenth, Sixteenth, Seventeenth, Twenty-fourth, Twenty-fifth, and Twenty-sixth wards of Brooklyn, and Flatlands.
- V. Richmond, the First, Second, Third, Fifth, Sixth, Eighth, Fourteenth, and parts of the Fourth and Ninth wards of New York, and Governor's, Bedloes, and Ellis Islands.
- VI. The Seventh, Eleventh, and a part of the Fourth wards of New York.
- VII. The Tenth, Seventeenth, and parts of the Fifteenth, Eighteenth, and Twenty-first wards of New York.
- VIII. The Sixteenth, and parts of the Ninth, Fifteenth, Eighteenth, and Twentieth wards of New York.
- IX. The Eighteenth, Nineteenth, and Twenty-first wards, lying east of Third Avenue, New York, and Blackwell's Island.
- X. Parts of the Twentieth, Twenty-first, Nineteenth, Twelfth, and Twenty-second wards, New York, and Ward's and Randall's Islands.
- XI. The Twenty-third, Twenty-fourth, and parts of the Twelfth, Twentieth, and Twenty-second wards of New York.
- XII. Westchester and Rockland.
- XIII. Orange and Sullivan.
- XIV. Ulster, Schoharie, and Greene.
- XV. Dutchess, Columbia, and Putnam.
- XVI. Rensselaer and Washington.
- XVII. Albany.
- XVIII. Saratoga, Fulton, Hamilton, Montgomery, and Schenectady.
- XIX. Clinton, Essex, and Warren.
- XX. St. Lawrence, Franklin, and Lewis.
- XXI. Oswego and Jefferson.
- XXII. Oneida.
- XXIII. Madison, Otsego, and Herkimer.
- XXIV. Delaware, Chenango, and Broome.

- XXV. Onondaga and Cortland.
 - XXVI. Cayuga, Tompkins, Seneca, and Tioga.
 - XXVII. Chemung, Steuben, Alleghany.
 - XXVIII. Wayne, Ontario, Schuyler, and Yates.
 - XXIX. Monroe and Orleans.
 - XXX. Genesee, Wyoming, Livingston, and Niagara.
 - XXXI. Erie.
 - XXXII. Cattaraugus and Chautauqua.
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THE ASSEMBLY DISTRICTS.

Alleghany, Broome, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Genesee, Greene, Herkimer, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Putnam, Richmond, Rockland, Schenectady, Schoharie, Schuyler, Seneca, Suffolk, Sullivan, Tioga, Tompkins, Warren, Wyoming, Yates, are each one district. Fulton and Hamilton are united, forming one district.

Cattaraugus, Cayuga, Chautauqua, Dutchess, Jefferson, Niagara, Orange, Oswego, Otsego, Queens, Saratoga, Steuben, Wayne, Washington, have each two districts.

Monroe, Oneida, Onondaga, Rensselaer, St. Lawrence, Ulster, and Westchester, have each three districts.

Albany has four districts.

Erie has five districts.

Kings has twelve districts.

New York has twenty-four districts.

TABLE OF DEPARTMENTS, DISTRICTS, AND COUNTIES,
EMBRACED IN A GENERAL TERM OF THE SUPREME
COURT.

FIRST DEPARTMENT {
Consists of { *First District.* { City and County
of New York.

SECOND DEPARTMENT {
Consists of { *Second District.* { *Counties :*
Richmond,
Kings,
Queens,
Suffolk,
Westchester,
Putnam,
Dutchess,
Orange, and
Rockland.

THIRD DEPARTMENT {
Consists of { *Third District.* { *Counties :*
Columbia,
Rensselaer,
Sullivan,
Ulster,
Albany,
Greene, and
Scholarie.

{ *Fourth District.* { *Counties :*
Warren,
Saratoga,
St. Lawrence,
Washington,
Essex,
Franklin,
Clinton,
Montgomery,
Hamilton,
Fulton, and
Schenectady.

FOURTH DEPARTMENT Consists of	{	<i>Fifth District.</i>	{ <i>Counties:</i> Onondaga, Jefferson, Oneida, Oswego, Herkimer, and Lewis.
		<i>Sixth District.</i>	{ <i>Counties:</i> Otsego, Delaware, Madison, Chenango, Tompkins, Broome, Chemung, Schuyler, Tioga, and Cortland.
FIFTH DEPARTMENT Consists of	{	<i>Seventh District.</i>	{ <i>Counties:</i> Livingston, Ontario, Wayne, Yates, Steuben, Seneca, Cayuga, and Monroe.
		<i>Eighth District.</i>	{ <i>Counties:</i> Erie, Chautauqua, Cattaraugus, Orleans, Niagara, Genesee, Alleghany, and Wyoming.

INDEX

TO THE

CONSTITUTION AND LOCAL AND STATE GOVERNMENT OF THE STATE OF NEW YORK.



- Academies, support of, 88.
- Actions or suits, by or against corporations, 86.
- Adjournment, neither house to adjourn without consent of the other, 66.
- Adjutant-general, appointment and tenure of office, 90.
- Agricultural land, certain leases or grants to be void, 61; experiment station, 25, 26.
- Alienation of lands, restraints upon, to be void, 61.
- Amendments, 4, 66, 91, 103.
- Appropriations, 68, 83.
- Assembly, 7, 8, 9; accepting U. S. office, vacates seat of member, 66; compensation of members, 65; election to be held in November, 66; has the power of impeachment, 74; majority of, necessary to pass bills, 66; members not to be questioned elsewhere for words said in debate, 66; members not to receive civil appointments, 65; members not to receive state civil appointments, 65; not to adjourn without the consent of the senate, 66; number of members, 7, 64; number when and how apportioned and chosen, 64; to choose its own officers, 66; to judge of qualifications, election, etc., 66; to keep a journal, and publish the same, 66; to sit with open door, except, etc., 66; who ineligible to, 66.
- Assessors, the, 43.
- Attorney-general, 12, 13, 71, 72, 74.
- Attorney, district, 35, 51.
- Ayes and noes, 66, 68, 71, 77, 84, 91.
- Bail, excessive, not to be required, 59.
- Ballot, elections to be by, except for town officers, 63.
- Banking, 86.
- Bank notes or bill, 86.
- Betting on elections, persons to be excluded from voting, 6, 63.
- Bills, 9, 66, 67, 69, 71, 84.
- Board of Aldermen, 46.
- Board of Claims, 17.
- Board of Health, state, 21, 22, 23.
- Borrowing money, 83, 84, 87.
- Bribery, 92, 93.
- Bridges, 43, 49, 67.
- Brooklyn, 6, 77, 78.

- Buffalo, 77.
 Canal board, 72, 73, 74, 82.
 Canals, 50, 82, 83.
 Charities, Board of, 27, 28.
 Constitution, a, 4.
 Cities, 4, 45, 85, 86, 87, 89.
 Citizens, 5, 59, 60.
 Civil Service Commission, 19, 20, 21.
 Counties, 38, 39, 64, 65, 68, 87, 88, 89.
 County seats, change of, 67.
 Crime, no one to answer except on presentments, etc., 35, 60.
 Criminal cases, no one to be witness against himself, 60.
 Clerk and register of New York, 88, 89.
 Clerk of court of appeals, 75, 80.
 Clerk of the supreme court, county clerks to be, 80.
 Code, commissioners to reduce laws into, 61.
 Collector, the, 43.
 Colonial acts, the law of this state, 61.
 Commissary-general, 90.
 Commissioners of the canal fund, powers and duties, 74.
 Commissioners of the land office, 74, 83; who shall be, 73.
 Commissioners to frame code, 61.
 Common law, part of the law of this state, 61.
 Common council, 46.
 Common school fund, 88.
 Compensation of county judges, 78; of judges of court of appeals and justices of supreme court, 78; of justices of city court, 78; of members of the legislature, 8, 65; of the governor, 10, 70; of the lieutenant-governor, 12, 70.
 Comptroller, 13, 71, 73.
 Congress, members of, ineligible to the legislature, 8, 66.
 Conscience, liberty of, 59, 90.
 Constitution, amendments, 4, 91, 92, 93.
 Contractors, 67, 68, 82.
 Coroners, 41, 88, 89.
 Corporate rights or charters not affected, 62.
 Corporations, 85, 86, 87.
 County clerks, 40, 78, 80; vacancies, how filled, 89.
 County courts, powers and jurisdiction, 29, 78.
 County judge, and surrogate, 78, 79, 80.
 County treasurer, 40.
 Courts, the, 28.
 Court of appeals, 30, 31, 75, 76, 77, 78, 79, 80, 93.
 Court of sessions, 78, 80.
 Court, supreme, 30, 31, 37, 75, 76, 77, 78, 79, 80, 93.
 Courts, inferior local, may be established by legislature, 79; of oyer and terminer, justice of supreme court may preside in, 76; of record in cities, judgments of, may be removed to court of appeals for review, 80.
 Credit or money of state, not to be loaned, 87.
 Criminal proceedings, 35, 36, 37.
 Dairy commissioner, 24, 25.
 Debate, legislative freedom of, secured, 66.
 Debt, 81, 83, 84, 87.
 Debts, 62, 82.
 Decisions, judicial, 80. [93.
 District attorneys, 35, 40, 51, 88, 89,
 Districts, 7, 50, 64, 95, 96.
 Districts, judicial, 51, 75, 76.
 Divorce not to be granted without judicial proceedings, 60.
 Duration of office, when not fixed by law, 89.

- Election returns, 47.
 Electors, 47, 48, 62, 63.
 Engineer [see State engineer and surveyor].
 Enumeration of inhabitants, when taken, 64.
 Erie canal, not to be sold, leased, etc., 83.
 Escheat to the people, 61.
 Executive power vested in the governor, 10, 69.
 Exceptions, 37.
 Feudal tenures abolished, 61.
 Fines, 59, 61.
 Fisheries, Commission of, 26.
 Forests, Commission of, 26, 27.
 Freedom, debate in legislature secured, 66; speech, religion, and press secured, 59, 60.
 Fund, no money paid from, without appropriation, 83.
 Gauging, office for, abolished, 74.
 Governor, 10, 11, 12, 69, 70, 71, 74, 88, 90, 93.
 Grants, 61, 62.
 Habeas corpus, not to be suspended, except, etc., 59.
 Hamilton county, to elect members with Fulton, 64, 65.
 Highways and bridges, 49.
 Highway commissioners, 43.
 Impeachment, 74, 75.
 In criminal proceedings, 35.
 Indians, 61.
 Indictment, not to be tried without, 60.
 Individual rights, 5.
 Infamous crime, 46, 49, 60, 63.
 Inferior local courts may be established, 79.
 Inspections, all offices for, abolished, and not to be created, 74.
 Inspectors of state prisons, abolished, 73.
 Interest, regulating rate of, 53, 67.
 Invasions, etc., 84.
 Jeopardy, not to be put twice in, for same offence, 60.
 Journals of each house to be kept and published, except, etc., 66.
 Judges, 28, 29, 30, 31, 74, 75, 77, 78, 80.
 Judicial, decisions, free from publication, 80; officers, except justices of the peace, not to receive fees, 80; legislature to direct time and manner of appointment of officers, 79; officers may not serve after seventy years of age, 78; proceedings, 32.
 Jurors, drawing, etc., 32, 67.
 Jury, 37, 59, 60.
 Justices, 28, 29, 30, 31, 74, 75, 77, 78, 79, 80.
 Justice's court, 29.
 King of Great Britain, grants of land by, 62.
 Labor statistics, bureau of, 24.
 Land, 61; office, commissioners of, 74; purchases from Indians void, unless, etc., 61.
 Law and equity, supreme court of, 75.
 Laws, 66, 67, 69, 84.
 Legislature, 7, 8, 9; compensation of members of, 65; each house not to adjourn without consent, 66; each house to choose its own officers, 66; each house to determine its own rules, 66; each house to judge of elections, 66; each house to keep a journal, 66; each house to keep open doors, 66; extra session of, how called, 69; freedom of debate in, 66; legislative term, 89; majority constitutes a quorum, 66; may authorize judgments, etc., 70; may change mode of choosing officers, 91; may

- confer powers of local legislation, 69; members not to receive civil appointments, 65; not to audit or allow a private claim, 68; not to grant extra compensation to public officers, 68; not to pass private or local bills in certain cases, 68; to create corporations by general laws, 85; to declare what constitutes vacancy, 89; to direct as to appointment of judicial officers, 79; to elect governor and lieutenant-governor in certain cases, 69; to fix time for electing militia officers, 81; to pass general laws, 68; to provide for filling vacancies in office, 89; to provide for organization of cities and villages, 86; to provide for publication of all statutes, 80; to provide removal of officers, 89; to restrict the powers of cities and villages, 86; vote on removal of certain judicial officers, how taken, 77; vote to be entered on journals, 77; what constitutes, 7, 64; when elected, 66; when to assemble, 89; who is ineligible to, 66.
- Liability of corporations and stockholders, 85, 86.
- Libel, law, facts to be determined by the jury, 60.
- Lieutenant-governor, 8, 12, 69, 70, 74.
- Life and liberty, not to be deprived of, without, etc., 60.
- Limitation of claims against state, 85.
- Literature fund inviolate, and revenues, how applied, 88.
- Local bills, subject to be expressed in title, 67; judicial officers, 77; legislation, may be conferred on supervisors, 69.
- Lotteries prohibited, 60.
- Lunacy, commissioner in, 28.
- Majority of each house, 66.
- Measures and weights, standard of, how supplied, 74.
- Measuring, office for, abolished, and not to be created, 74.
- Message, governor to communicate by, 69, 71.
- Militia, 48, 69, 90, 91.
- Money, 83, 84.
- Municipal corporations, 85, 86.
- Names, change of, 67.
- New York City, 6, 77, 78.
- Oath of office, form of, 52; no other test required, 91.
- Officers, 12, 74, 89, 90, 91, 92.
- Oyer and terminer [see Court of].
- Pardons and commutations, etc., 70.
- Personal liability of stockholders and corporations, etc., 85, 86.
- Petition, right of, not to be abridged, 60.
- Political, year, when to begin, 89; rights and duties, 53.
- Poor, the, 49.
- President of the senate, lieutenant-governor, casting vote, etc., 70.
- Prisons, superintendent of, 73.
- Private or local bills, 60, 67.
- Property, 60, 61, 62.
- Public schools, 48.
- Public money or property taken for local or private purposes requires two-thirds, 60; not to be paid without appropriation in two years, 83.
- Public works, superintendent, appointment of, 72.
- Punishment, cruel or unusual, not to be inflicted, 59.
- Qualifications of electors, 62, 66.
- Quarantine, commissioners of, 23, 24.
- Quarter sales to be void, 61.
- Question on bill to borrow money, how put, 84.
- Quorum, majority of each house, 66.

- 68; what to constitute, in court of appeals, 75.
- Railroad commissioners, 17, 18, 19.
- Railroad tracks, granting right to lay, 67.
- Regents, the, 14, 15, 16.
- Register in New York [see Clerk and register, New York City].
- Religion, freedom in, secured, 59.
- Removal of officers, other than judicial, local or legislative, 89.
- Rent and services, certain, saved and protected, 61.
- Reporter of court of appeals to be appointed by court, 75; of supreme court to be appointed, 80.
- Reports of decisions to be published, 80.
- Reprieves and pardons for offences, 70.
- Residence, of electors, 63; of persons eligible to the office of governor, 69.
- Resolutions, certain, law of the state, 61.
- Revenues of canals, 81, 82.
- Roads, laying out of, etc., 67.
- Rules, each house to determine its own, 8, 66.
- Sailors may vote, 6, 62.
- Salaries of state officers, 58.
- Salt springs, lands contiguous, 83.
- Savings banks, 86.
- School commissioners, 41.
- School district, 44.
- School fund, capital inviolate, and revenues, how applied, 88.
- Secrecy of legislative proceedings, when allowed, 66.
- Secretary of state, 12, 71, 73.
- Senate, accepting U. S. office vacates seat in, 8; appointments to certain offices to be made by governor, 72, 73, 76; compensation, 65; districts, 7, 64, 94; extra session may be convened, 69; freedom of debate secured, 66; majority, 66.
- Senate, may remove militia officers on recommendation of governor, 80; general rules to govern, 64, 65, 66, 70, 74.
- Sheriffs, 39, 88.
- Sinking fund, 81, 82, 85.
- Soldiers may vote, 62.
- Speaker of the assembly, 8, 65, 73.
- Specie payments of banks, 86; of bank bills to be secured, 86.
- Speech, freedom of, secured, 60, 66.
- State, a, 38; claims, against the, not to be audited or allowed, 85; engineer and surveyor, 12, 13, 72, 73; inspector of prisons abolished, 73; may create a \$1,000,000 debt, 84; not to loan its credit, 84; not to loan its money or credit, 87; prisons [see Superintendent of prisons].
- Statutes, 61, 80.
- Street railroads, 67.
- Struck jury, a, 37.
- Suffrage, 62, 63.
- Superintendent of public instruction, 14; of prisons, 37, 73; of public works, 13, 72; of insurance, 16; of banking, 17.
- Supervisors, 43; of counties to make assembly districts, 64; board of, in each county, 68; boards of, may have power of local legislation, 68; of New York City to make senate districts, 64; the, 40, 43; county board of, 40, 41.
- Supreme court, 28, 30, 75, 76, 77, 78, 79, 80.
- Surrogate, county judge to act as, 29, 78; courts of record may perform duties of, in certain cases, 70; election of, may be provided

- for, 78; election of special, may be provided for, 79; term of office, 78.
- Surrogate's court, how relieved in certain cases, 80.
- Surveyor, state [see Engineer and surveyor].
- Swamps, draining of, 67.
- Taxation, cities and villages to be restricted in power of, 86.
- Tax, 68, 83.
- Taxes, 51.
- Testimony in equity cases, how taken, 76.
- Title of bills, local and private, 67.
- Town, 42, 87; officers to be elected or appointed, 42, 89; clerk, 43.
- Travel of members of the legislature, compensation for, 65.
- Treason, 70.
- Treasurer, 12, 13, 71, 73.
- Treasury, no money to be paid from, without appropriation, 83.
- Two-thirds of all elected to pass certain bills, 60; of all present on bill returned by governor, 71; of all present to change mode of electing militia officers, etc., 91.
- United States, deposit fund, 88; officers, judicial or military, not to hold seat in legislature, 66.
- Vacancy in office of treasurer, 74; judge of court of appeals, 75; justice of supreme court, 76; legislature to declare what constitutes, 89; provide for filling, 89; sheriffs, etc., how filled until next political year, 89.
- Venue, change of, 67.
- Veto of the governor, 71.
- Villages, 44, 67, 86, 87, 89.
- Votes, certain, for members of the legislature, void, 65.
- Voters, 5, 6, 62.
- Weighing, all officers for, abolished, 74.
- Weights and measures, standard of, how supplied, 74.
- Witness, 59, 60, 92, 93.
- Year, political and legislative term, 89.
- Yeas and nays [see Ayes and noes].



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